

MAINE STATE LEGISLATURE

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State of Maine

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carelessness and inattention. It is wandering from the standard of care that a reasonably prudent person would do or how they would act in a similar circumstance. That is what negligence is. Recklessness, on the other hand, is wanton disregard for the dangers presented by a person's actions, so if we change the standard from negligence to recklessness what we are saying is what my colleague from Van Buren said a while ago. We are saying that it is okay to be negligent. Just because you have blue lights and are in pursuit it is okay to be inattentive. It is okay to be careless. It is okay to disregard the normal actions of a reasonably prudent person in similar circumstances. That just doesn't wash. It just doesn't wash. Recklessness is not a standard that needs to be applied in this case. Negligence is simple. It is easy to understand and it should remain so. I encourage you to vote in favor of indefinite postponement. Thank you.

The SPEAKER: The Chair recognizes the Representative from Turner, Representative Bryant-Deschenes.

Representative **BRYANT-DESCHENES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have only been an attorney since 2000 and I have only done *pro-bono* practice because I have met a lot of people in my district who have needed it. I have very little experience in criminal court but I think that one thing I feel is very easy to understand and very simple to present is the fact that what we are discussing here is two different concepts. One is what is considered a matter of law, which is all the discussion about duty of care and standard of care, which is determined by the judge who would be sitting in the case. We have, in addition to that what is a question of fact and that is what happened in all of these instances? Basically, the bottom line here is that all of these things are not determined by what is said here tonight. They are going to be determined by a judge in a court of law and either a jury or the judge, depending on the way the trial is set up. We are not talking about defining this tonight and solving the problem. We are talking about laying out something that is going to be decided in more litigation and it is going to create more expensive insurance for the municipalities and not having the amendment is what I consider a cause of that. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-666) to Committee Amendment "A" (H-657). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 289

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Fischer, Fisher, Gerzofsky, Goldman, Grose, Harlow, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Marley, Mazurek, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pineau, Pingree, Piotti, Rines, Saviello, Schatz, Sherman, Smith N, Smith W, Thompson, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Austin, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Finch, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hanley S, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson W, Robinson, Rosen,

Seavey, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Tuttle, Vaughan.

ABSENT - Annis, Berube, Emery, Fitts, Hogan, Hotham, Makas, Marraché, Moore G, Pilon, Richardson M, Sampson.

Yes, 70; No, 69; Absent, 12; Excused, 0.

70 having voted in the affirmative and 69 voted in the negative, with 12 being absent, and accordingly **House Amendment "A" (H-666) to Committee Amendment "A" (H-657) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (H-657) was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-657)** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (S-283) - Minority (6) Ought to Pass as Amended by Committee Amendment "B" (S-284) - Committee on UTILITIES AND ENERGY on Bill "An Act To Amend the Maine Wind Energy Act"

(S.P. 477) (L.D. 1379)

Which was **TABLED** by Representative BLISS of South Portland pending **ADOPTION of Committee Amendment "B" (S-284).**

Representative FLETCHER of Winslow **PRESENTED House Amendment "A" (H-667) to Committee Amendment "B" (S-284),** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Fletcher.

Representative FLETCHER: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would just like to explain briefly what this amendment does. In the amendment that came from the other body there was a provision that talked about long term contracts and that could raise some concerns so to make sure that we have clarity we are taking that clause out of this amendment. The other thing was that there was some non-conformity of report dates, January 1, 2006 versus March 1, 2006 and this amendment makes that clear. Thank you very much Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Bliss.

Representative BLISS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. While I may obviously have preferred a different outcome on the earlier vote I want to thank my colleague the good Representative from Winslow for presenting this amendment. I think that it goes a long way to clearing up some of the issues that we were concerned about in the original amendment as it was attached. I heartily encourage my colleagues to support this and move forward with the bill. Thank you.

Subsequently, House Amendment "A" (H-667) to Committee Amendment "B" (S-284) was **ADOPTED.**

Senate Amendment "A" (S-322) to Committee Amendment "B" (S-284) was READ by the Clerk and **ADOPTED.**

Senate Amendment "B" (S-341) to Committee Amendment "B" (S-284) was READ by the Clerk and **ADOPTED.**

On motion of Representative FLETCHER of Winslow, the House **RECONSIDERED** its action whereby **Senate Amendment "B" (S-341)** to **Committee Amendment "B" (H-284)** was **ADOPTED**.

On motion of the same Representative, **Senate Amendment "B" (S-341)** to **Committee Amendment "B" (H-284)** was **INDEFINITELY POSTPONED**.

The **SPEAKER**: The Chair recognizes the Representative from Winslow, Representative Fletcher.

Representative **FLETCHER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just for clarity, we need to postpone Senate Amendment "B" which is in conflict with Amendment (H-667) this is just making sure that we do not have duplication and conflicting amendments. Thank you very much Mr. Speaker.

Subsequently, **Committee Amendment "B" (H-284)** as **Amended by House Amendment "A" (H-667)** and **Senate Amendment "A" (S-322)** thereto was **ADOPTED**.

The Bill was assigned for **SECOND READING** later in today's session.

The following items were taken up out of order by unanimous consent:

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Eliminate the Offset for Social Security and Certain Other Pensions for Unemployment Benefits"

(H.P. 365) (L.D. 490)

Majority (7) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-555)** in the House on June 7, 2005.

Came from the Senate with the Minority (5) **OUGHT NOT TO PASS** Report of the Committee on **LABOR READ** and **ACCEPTED** in **NON-CONCURRENCE**.

On motion of Representative **DUPREY** of Hampden the House voted to **RECEDE AND CONCUR**.

SENATE PAPERS

Non-Concurrent Matter

An Act To Replace the Interagency Task Force on Homelessness and Housing Opportunities with the Statewide Homeless Council

(S.P. 624) (L.D. 1678)

(C. "A" S-320)

PASSED TO BE ENACTED in the House on June 6, 2005.

Came from the Senate **PASSED TO BE ENGROSSED** in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act To Require the Secretary of State To Collect Information on Operating-under-the-influence Convictions from Other Jurisdictions before Issuing a Driver's License in Maine"

(H.P. 1150) (L.D. 1632)

Signed:

Senators:

DIAMOND of Cumberland
NUTTING of Androscoggin

CLUKEY of Aroostook

Representatives:

BLANCHETTE of Bangor
GERZOFKY of Brunswick
GROSE of Woolwich
PARADIS of Frenchville
HANLEY of Gardiner
SYKES of Harrison
CHURCHILL of Washburn
DAVIS of Augusta
PLUMMER of Windham

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Representative:

GREELEY of Levant

READ.

On motion of Representative **BLANCHETTE** of Bangor, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought Not to Pass** on Bill "An Act To Create the Crime of Vehicular Manslaughter for Persons Who, while Committing a Traffic Infraction, Cause the Death of Another Person"

(H.P. 784) (L.D. 1141)

Signed:

Senators:

DIAMOND of Cumberland
NUTTING of Androscoggin
CLUKEY of Aroostook

Representatives:

BLANCHETTE of Bangor
GERZOFKY of Brunswick
GROSE of Woolwich
PARADIS of Frenchville
HANLEY of Gardiner
CHURCHILL of Washburn
GREELEY of Levant
DAVIS of Augusta
PLUMMER of Windham

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Representative:

SYKES of Harrison

READ.

On motion of Representative **BLANCHETTE** of Bangor, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

On motion of Representative **TUTTLE** of Sanford, the House adjourned at 7:11 p.m., until 9:00 a.m., Thursday, June 9, 2005.