

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

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House of Representatives

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respect has assisted in the abuse of the electoral process. Those are important things to put upon the record because we take them as important things but for granted in our daily lives and in our own Constitution. Because they were of grave concern to us from 1987 onward when we first passed this legislation, I think they bear repetition now as a standard for the future.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Coffman.

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: This bill is important to me and from what I know of the subject matter, I think we are looking at an opportunity here for them to invest in us. We don't have any money to invest over there.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following item was taken up out of order by unanimous consent:

SENATE PAPERS

Resolve, Pertaining to Assisted Living Services and Boarding Care (EMERGENCY) (S.P. 741) (L.D. 1969)

Came from the Senate, referred to the Committee on Human Resources and Ordered Printed.

Was referred to the Committee on Human Resources in concurrence.

At this point, the Sergeant-at-Arms escorted Noel Hajdysz to the rostrum to serve as Honorary Speaker for the day.

The Chair laid before the House the following items which were tabled earlier in today's session:

Bill "An Act to Clarify the Authority of the Department of Transportation to Determine Condition of Property Prior to Acquiring" (EMERGENCY) (H.P. 847) (L.D. 1152) (Governor's Bill) which was tabled by Representative KONTOS of Windham pending adoption of Committee Amendment "A" (H-791).

Representative O'GARA of Westbrook presented House Amendment "A" (H-812) to Committee Amendment "A" (H-791) which was read by the Clerk and adopted.

Committee Amendment "A" (H-791) as amended by House Amendment "A" (H-812) thereto was adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Representative KONTOS of Windham presented House Amendment "A" (H-813) which was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-791) as amended by House Amendment "A" (H-812) thereto and House Amendment "A" (H-813) and sent up for concurrence.

House Divided Report - Majority (8) "Ought to Pass" as amended by Committee Amendment "B" (H-798) - Minority (5) "Ought to Pass" as amended by Committee Amendment "C" (H-799) - Committee on Energy and Natural Resources on Bill "An Act to Allow the Use of Advanced Lightweight Beverage Containers" (H.P. 193) (L.D. 256) which was tabled by Representative MARTIN of Eagle Lake pending acceptance of either Report.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report.

Mr. Speaker, Men and Women of the House: If I may remove my hat as floor leader and go back to a happier time or may be as happier a time as the House Chairman of the Energy and Natural Resources Committee, I will try to tell the House why I signed the report that I did.

We have been meeting since I got elected to leadership with business leaders from every walk of life across the state and one of the things that we hear repeatedly is how the State of Maine sends out the wrong signal to business, that we all want you to come here, yet we do everything we can to discourage, insult and question the integrity of businesses. Now just so you won't think I have completely jumped away from the bandwagon of being a very strong environmentalist, that is not the case at all.

Quite frankly, when we supported this ban, and this ban has been on the aseptic packages is the only one in the country — four years ago, we did it because we weren't quite sure what we could do with these packages. Industry was very reluctant to come forward and offer some alternatives other than the fact that they were going to end up on the sides of the roads and the case that was more of interest to me was along the streams and the rivers of the State of Maine, so we kind of put the pressure on them by banning them.

Since that time, there has been meetings and discussions between the major manufacturers of this package and Maine Waste Management Agency, which is the agency we set up to deal with waste management in the State of Maine.

The Majority Report simply removes the ban on aseptic packages but it does do some things, it allows the committee to come back and report out legislation that would change conditions or reinstate the ban if goals established by the Waste Management Agency and the producers of aseptic packages are not met. If the Waste Management Agency feels that the agency has not put their best foot forward, is not meeting the guarantees that they gave us verbally, the assurances that they would do everything they could, then they would be able to (by legislation) deal with that.

I will tell you the reason — in the Minority Report it basically allows the ban to be removed and sets some recycling goals, 10 percent by 1995, all the way up I think to 60 percent by 1999. If those goals aren't met, then the aseptic packages goes

under the Bottle Bill, which institutes a 5 cent deposit and 3 cents for handling — I guess it doesn't do that, Representative Wentworth is shaking his head — it puts a 3 cent handling fee on the package at the end of the time period if they don't meet the goals.

The reason the majority of us did not support that is, as a former small storeowner, I, quite frankly, don't know what I am going to do with these packages. I don't want them in my store. I think if you talk to your small storeowners, they don't want them either. It is not like you have a case that you can put the empties into, it is not like you can throw them into a large bag like you can with cans and have the distributor come and pick them up — what do you do with these packages which are a couple of ounces at the most that can be crumpled into a little ball that are made up of a small part of aluminum and mostly plastic? What do you do with them when they come back into your store, especially if you have a 3 cent handling fee on them? Who is going to come get them, where are they going to go, how are they going to handle them, what are they going to do with them? That was the biggest problem. It, once again, puts the burden to deal with the problem as far as the environment in the State of Maine on one small segment of society and that is the people who own those small stores.

It came down to me — we tell business and industry, yes, we want to work and cooperate with you and the Majority Report, I think, kind of says, yes, we want to do that. The problem I have with the Minority Report is that it says, yes, we want to do business with you, yes, we would like to have you around, yes, the money you bring is important but, no, we don't trust you, no, we don't think you will do what you said you will do, no, we want to put a hammer over your head because if you don't, we are going to come down with the hammer.

I must admit to you that the performance of this industry in the past before our committee was more than enough justification for members of the committee to doubt their sincerity in whether they would do what they said they were going to do.

I believe that since this is the only ban in the United States of America and that 49 other states do not ban this package, I believe the industry is going to do everything within their power to make sure that this product, if it is allowed back into the State of Maine, is collected, will be recovered and will not show up on the streets and will not show up in the rivers and streams of the State of Maine. I believe, quite frankly, if that does happen, the people of Maine will not allow it to happen, there will be many, many different pressures brought to bear and the ban will be reinstituted.

It just boiled down to the question of, at what point do you allow an industry or certain industries to put their best foot forward without telling them, yes, we trust you but we are going to make sure that we have the hammer.

You all know that Kyes Fibre is located in Waterville and Fairfield and one of the packages that they are looking at is a pouch-type of package. They do produce it in other parts of the country, they are using it for non-carbonated drinks, that means that the packages can be used for Pepsi, Coke and Sprite. It has to be used for non-carbonated drinks so it is really a small amount of the wastestream involved. We had a couple of people who showed up that are

working for a couple of different counties and towns who said how this had been put into the process and they are using that as part of their waste recovery. They are going to be collecting aseptic packages with milk cartons and hydro-pulping, which removes the paper fibers from milk cartons (which is still a problem) and using that as secondary fiber. Maybe Statler Tissue or some of the other industries in the state will be buying that secondary fiber because it is very valuable. As a matter of fact, it is as valuable, if not more, than virgin pulp. So these will be kind of folded into that. It is true that they can do the recycling on the milk containers without aseptics. The simple fact of the matter is that aseptics are something that is so convenient and many of the people — we got letters from both sides of the issue, but many of the parents told us the aseptic packages were nice because they didn't have to worry about broken glass in lunch containers and lunch boxes and it took up a small space.

I guess when it came down to it, even though I had supported the ban the last four years, sitting down and listening to industry and business, I just felt that it is about time that we, the State of Maine, we who make the laws in this state, try to reverse the impression, whether it is a real factor or not, that we discourage business activity in the state, that we do everything we can to tell them one thing on one side of our mouth, yet continue to pass bills that throw roadblocks, whether they be large or small, in the past of those very industries that are trying to come to the state and not only create jobs but some type of economic activity.

I have not abandoned the principles that I had about looking out for the environment, clearly those who know me know that I probably spend as much time outside as anybody can possibly do, but I just felt that the time had come, we had made our point, we had pushed them to the wall and clearly the opportunity was there to get something progressive and positive out of it and that is why I encourage you to support the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Kennebunkport, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Ladies and Gentlemen of the House: At the time the Energy Committee took the final vote on this particular bill, our Majority Leader was running in a heated race, so I can excuse him from misinterpreting what the Minority Report does.

It does not require that these containers will come back to small stores, large stores, redemption centers, it does not require that.

What the Minority Report does is it creates a level playing field that requires that the manufacturers of all beverage containers make an equal effort to recycle containers within this state. It is a market solution. It offers industry a choice. They can either achieve the recycling goals that are laid out in the law which are reasonable — the industry has made claims that they can reach those levels in areas where they have recycling programs, so they certainly should be able to reach them in Maine. If they choose not to achieve those recycling goals or fail to achieve those goals, then a 3 cent handling fee kicks in which goes into the Waste Management Fund and which will then be used to fund recycling programs at the municipal level, in part to get at these containers.

The committee rejected (in the end) putting these under the Bottle Bill. Both reports rejected that idea because of some of the problems that that might create. However, under the Bottle Bill, every manufacturer containers who sells their product in Maine pays a 3 cent handling fee automatically to the Mom and Pop stores, to the large grocery stores and the redemption centers to cover the costs of recycling the material. It was our belief, those who signed the Minority Report, that we should hold the aseptic industry, an industry that produces the foil pouches or any other type of multi-material container, to the same standard as those containers under the Bottle Bill. If they don't make the effort on their own, then the state will do it for them.

If you buy Cran/Grape right now, a juice product, in an aluminum container, as a consumer you pay a 3 cent handling fee that is wrapped into the price of the product but you pay it. That 3 cents goes to the redemption center where you take your bottles in to cover the cost of recycling that.

It is our belief, those of us who signed the Minority Report, that the same standards should hold true for those containers that come under this new provision lifting the ban on multi-material containers. Both reports lift the ban but the Minority Report holds the industry to some accountability for their claims that they will recycle these products.

I think the attitude of the Energy Committee changed somewhat this time around when we dealt with this issue and we realized that we needed to take some steps to solve this problem. I would suggest though that the industry's attitude has not changed much, they are a huge multi-national corporation. They don't care very much about what happens in Maine, I believe. What their real concern is that this ban might spread and that always has been their real concern, I believe. What they did this time, which was brilliant, is hire lobbyists who have a different attitude and that changed the way the committee dealt with them. I would suggest, though, that maybe their attitude has not changed and they have yet to prove that. The Minority Report holds them to this new attitude. If they don't achieve the recycling on their own in any way they choose, then the state will do it for them. It is their choice.

I hope you will reject the Majority Report and accept the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: I urge your support for the Majority "Ought to Pass" Report. In urging that, I will not speak from an environmental or a business viewpoint but for 65,000 people who could benefit from having aseptic packages available to them. These are the Maine people who have diabetes.

I don't know how many of you saw the movie, Steel Magnolias, but in it a woman by the name of Shelby is getting married and she is having her hair done and she has a low sugar or insulin reaction. A woman rushes to the counter and says, "Can I get her a cookie?" Her mother says, "No, get her orange juice, orange juice is the quickest way to increase somebody's blood sugar."

For those of you up back you can't see what I am doing but I am reaching in my desk and I am pulling out, yes, one of the infamous aseptic packages now banned in Maine. This one happens to be apple.....

The SPEAKER: I have to interrupt the Representative from Bethel, Representative Barth, to remind the Representative that the use of props is not appropriate within the guidelines of decorum that we have traditionally used in the framework of discussion of items in the House and would suggest that you probably also accomplished your mission.

The Chair would apologize to the Representative for interrupting and would allow the Representative to proceed.

Representative BARTH: I am sorry, Mr. Speaker, I was not aware of that and I apologize to the House.

As the Speaker said, you get my message. Orange juice is the quickest way to raise blood sugar. I keep these on the bedside table if I stay overnight in a motel here in Augusta or anywhere for that matter. I take them in my golf bag if I play golf, in my ski parka if I am skiing, backpack for hiking or anywhere, they are convenient and they don't need refrigeration. In fact, you can freeze them solid, throw them in your bag and if the day is hot by the time you get around to eating it, it has melted and is still cool.

I urge your support for the Majority Report and would ask you to vote favorably.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, My Learned Colleagues: First of all, I want to say that we tried last year, we went around and around on this recycling of these aseptic packages and we couldn't come to a program that a majority of the committee felt would be a good program, so we told industry to go back and come up with something a little more feasible that we could buy. They did.

I want to tell you exactly what they have done. First of all, the industry has hired a coordinator this past fall and if this bill passes, the industry commits to keeping the coordinator at least three years through December 31, 1996.

We had the manager of the Lincoln County Solid Waste Bureau there and he is in the recycling business and we had one of our Representatives, Bob Spear, who was on the Advisory Committee of that organization and he said if we would recycle the paper cartons along with the aseptic packages, it could be an economical recycling program. He is committed, as soon as this bill passes, to start picking up these aseptic packages along with the paper cartons.

Two brokers, Great Northern Recycling of Auburn/Lewiston and Zaitlin's of Saco, have committed themselves to buying the collected cartons from the municipalities and these cartons will then go to Encore Paper in New York for recycling. The industry is committed to educate every municipal recycling program before juice boxes are back on the grocery shelves. The industry will work with every Maine community that is interested in recycling this material and I feel that this is a good faith effort of the business to do a good job and I think it is about time to give them a chance.

I don't know about you folks but every time I open a potato chip bag, I see the same material that is in the aseptic packages, the tin foil on the inside. I don't hear anybody squawking about how many thousands upon thousands of these bags are being put into the wastestream. Just because a few people want this aseptic packaging, there is a big hullabaloo. We already exempt soy milk for the people who cannot

drink milk so they are using this kind already and I think it is about time we got off this way we are doing business and go along with the rest of the United States.

The SPEAKER: The Chair recognizes the Representative from China, Representative Chase.

Representative CHASE: Mr. Speaker, I would like to pose a question through the Chair.

Representative Barth, I share your concern about people with diabetes and I wonder if both the Majority and the Minority Reports do not address your concern? I thought what I heard was that people with diabetes would be able to have access to these packages under both the Majority and Minority Reports. Is that true?

The SPEAKER: The Representative from China, Representative Chase, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the question, yes. In fact, both reports allow sale of those packages in Maine so there will no difference whatsoever between the reports with respect to the concern of Representative Barth.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I will be extremely brief and I would like to take a moment to congratulate Representative Wentworth on his efforts. He went out and did a very fine job. I don't happen to agree with it completely but he did what he was asked to do and he presented it very nicely.

The reason I am on the Majority, and why I am supporting doing this, is that we have gone over this, as Representative Jacques pointed out, many, many times. I feel that this is the time for us to say to the industry, yes, you are going to do a service to the people of the state as well as getting a reward for yourself because you will increase what we are going to be taking out of the wastestream in taking out the gable top boxes.

If it does not work, then we can come back with another alternative later on, but I do like giving people the opportunity to prove themselves without hitting them over the head with a baseball bat.

I hope that you will support the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: There are several brief points that I would like to make before we conclude the debate. One is that the recycling envisioned by my colleague in Waterboro, Representative Lord, is possible under both reports. Only the Minority Report offers incentives for recycling. The Majority Report offers no incentives whatsoever.

The second point is that the Majority Report makes these the only juice containers without recycling incentives and the only juice containers without a 3 cent handling fee attached. That means that the Majority Report gives these containers a significant, competitive advantage over bottles and cans. Do we really want to favor one form of container over another in that fashion? Is it good public policy to require one form of container to pay a 3 cent handling fee and another form of container,

containing the same product, to not pay that handling fee? I would suggest that the answer is no, so I would hope that you would reject the pending motion so we could accept the Minority Report, open Maine to these containers under a system which offers substantial incentives for recycling.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: I urge you to vote against the pending motion so we can go on to accept the Minority Report in this case. I do so because I believe that the Majority Report will significantly undermine Maine's recycling efforts, which right now are some of the most innovative approaches in the nation and we are nearing about 35 percent of our wastestream being recycled. Of that 35 percent, a very large majority comes from the Bottle Bill, items that are recycled under the Bottle Bill. The recycling rate under the Bottle Bill is so much higher than other form of recycling rate in this state that there simply is no comparison: The recycling rate, for example, for beer and soda is 96 percent. The recycling rate for non-carbonated beverages, which include juices, which would be the type of things that we would see in the aseptics, is also 96 percent and that was just added a couple of years ago, yet it instantly rose up and at the same recycling rate. Most municipal programs can't even approach that kind of recycling rate. Right now, we don't have any infrastructure in place to accept aseptic juice boxes. Think about whether your town has a recycling program that would be able to collect aseptic juice boxes and then get them recycled. I think if your town is like mine, there would be a lot of steps that would have to go into place to make that happen.

In 1989, we passed a recycling law that was one of the most significant recycling laws in the nation. We made a choice in 1989 and the big issue at that time was whether we should have mandatory recycling where every town had to recycle maybe three items in order to comply with state law. This legislature decided then, and I think wisely, that instead we would expand the Bottle Bill to include juices, wine and liquor. We are the only state in the nation that does include juice, wine and liquor in our Bottle Bill. Our success rate is just phenomenal as I have said and we lead the nation in that effort.

The problem with the Majority Report is that it exempts aseptic juice boxes out of the recycling efforts that we have, which is our Bottle Bill, and it also says nothing in that report that will guarantee that there is any level of recycling or that will provide incentives for recycling. If you take a look at the Majority Report, it simply says that there will be a report back to the legislature about whether any recycling went on. To me, that is not a sufficient guarantee. Unfortunately, there is actually a disincentive for juice to remain being sold in items that are under the Bottle Bill because they will be exempted from the 3 cent handling fee. It will in fact provide an economic incentive for beverages that are now sold in items that are being recycled at a 95 percent rate to go into a material where there may be zero recycling. That is going to hurt our recycling efforts.

In 1989, when the aseptic juice packages were banned because they were deemed unrecyclable, there were 9 million containers. Right now, the non-carbonated juice market that is being sold in the

state is 25 million. I would think that we would at least be at the 9 million level when we go back to having aseptic juice boxes in this state. 9 million out of 25 million is a very significant amount that is simply not going to be recycled unless we accept the Minority Report.

I urge you to vote no on the pending motion so that we can go on and maintain our recycling efforts in this state and continue to lead the nation in this important endeavor.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for getting up a second time but there are a few points I feel I have to make.

Number one, if we allow aseptic packages back into the state, the percentage of containers that are going to be allowed (if they go the max) in the big picture of things is so small that I don't want anyone to be under the assumption that it will ruin the recycling efforts in the State of Maine.

A couple of other points I would like to make is the 3 cent fee that Representative Wentworth talked about in the Bottle Bill is for the collection of those bottles and cans. That is why the storeowners have to do it because if you bought it there, most people like to bring it back there. To say that they are not going to want to go back to the same store where they bought their containers, if you go aseptic I think, is stretching it a little bit. Hopefully, that won't be the case but I can tell you that the distributors aren't going to handle it because they don't have to. The simple fact of the matter is that there is such a small amount of packages in the big picture, Maine is really not big enough of a consumer to impact it one way or the other.

The other point I would like to make is — Representative Treat said that the Majority Report simply said that you are going to get a report back on the effectiveness — not exactly true. It says, "The committee shall review the report and any other additional information. Following the review, the committee may introduce or report out legislation requiring an additional status report by the agency" (that is the Maine Waste Management Agency) "to the committee by January 15, 1996." That is still ahead of the 10 percent that would be required of the Minority Report for the return rate/recycling rate on these containers. This Report is still ahead of that.

"Re-establishing the prohibition of that legislation may re-establish the prohibition on the sale of aseptic beverage packaging 90 days following the adjournment of the Second Regular Session of the 117th Maine Legislature or requiring both the report and the prohibition." It does, indeed, do a lot more than just let them come in willy-nilly.

The bottom line to me was, if you remove the ban, how much are we talking about? Representative Treat has made a big thing out of the effectiveness of the Bottle Bill for recycling containers. The unfortunate thing is, again, the burden to recycle these containers is still on a small minority in this state and that is the people who own the stores.

The other problem is that market for recycled goods has more control over what is recycled and how much of it is going to be in the State of Maine than anything else, but with the exception of the Bottle Bill, which artificially puts a 5 cent fee on there

that we all pay, which has encouraged this recycling and it is 3 to 5 percent of the total wastestream, but the reason we have such a high success rate is because you and I and our constituents fork over that nickel for a container up to 15 cents per container every time we buy it. Of course we are going to bring it back. There is nobody in my district that is rich enough that they can afford to throw that nickel away on a regular basis.

You all know what is going on, the Boy Scouts, the Girl Scouts, the Bands, teams, all collect bottles. They pick them up off the sides of the roads, if they happen to be there, and it is doing great, it is doing a great job. But, if you look at how much money we are spending to get that 3 to 5 percent return, some people question if we are really getting the biggest bang for our buck. When you start throwing aseptic packaging in there, which is such a small amount — we have spent 5 or 6 years and many, many hours of the taxpayers' time on this issue and I, quite frankly, think it is just not a real big issue. It has become a symbol for some people that if we do this, all of a sudden we are going backwards. But those of you who were here when we passed our Solid Waste Bill, if you remember, I got up and admitted that the bill was not perfect, that the law was not perfect, that we would have to be coming back. As market incentives and as people's desires and needs change, we should be willing to make changes to allow those changes to occur in our law. It seems that some people think that the law was written by Moses in tablets of stones and we can't do anything to move and allow some fluctuation on the way we do things in this state.

I am firmly convinced that if we allow aseptic packages to come back into the State of Maine and they start showing up anywhere, the industry will be booted out on its ear and they will not be allowed to come back again because they made certain promises. I think they convinced the Waste Management Agency that they are serious, they have hired a coordinator to start coordinating, to collect aseptic packages with the milk cartons, which we are doing very little with now, and Representative Treat talked about this being the only container — I went through my local grocery store the other day, they have this type of container only it is cardboard and waxed, because aluminum is allowed in aseptic packages, but it is not allowed under our Solid Waste Law, but there was molasses in these type of containers, I went down the list and there were more than one container that is almost identical to aseptic that we do nothing with except throw in our wastestream and burn.

I understand from the people who operate MERC AND PERC that you have to have some things that burn because if you don't, you have to use other forms of fuel to burn the trash that we are burning, which raises the cost for you and I and our constituents. Indeed, if you just take everything out of there that is easy to recycle and can't be burned, then you are going to run into another problem which we will have to deal with later.

I think it all boils down to how much of a problem are we talking about. I think the aseptic package has been a symbol way too long and, quite frankly, I just don't think it is worth it. It is not worth our time, it is not worth the industry's time and it is certainly not worth the storeowners time to try to fight about whether they are going to deal with this package or not. It is just non-carbonated beverages

and I think most of the people who have gone with Very Fine Juices with the glass containers, for whatever reason they do this, they are set up that way, and I think most of them are going to stay that way.

I asked my storeowner how much of your space would you give to aseptic packages if it was allowed in the State of Maine? He said, probably that wide (demonstrates with hands) and about that high, period. That would be an alternative to someone who didn't want to put the glass in their child's lunch box. I think if you look at the overall picture of the waste we are generating in this state, this package just isn't worth all this trouble.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Aliberti.

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: I have a statement to make, I am pleased that the Majority Leader made some of the points that he did. I just don't feel as though one of the points he made has the merit that he intended it to have when he indicated the person in the grocery store said he would only have this kind of space and this kind of space — I don't know how large that store was but I do know one thing, if you took a poll of the students in this state that are encouraged to use aseptic packaging, you would find an overwhelming response by these students in their ability to use this type of packaging for their juices. A great convenience. That's only one segment I wanted to point out to you.

The other is, if you honestly believe in recycling all the way, why haven't you addressed the dairy packages? There are parallels here, that package too should be recycled and fit into the same category as the aseptic package. Everybody shies away when you talk about the dairy package. Why? Isn't that a concern as far as recycling the package and this recycling law?

The SPEAKER: The Chair recognizes the Representative from Woodland, Representative Anderson.

Representative ANDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I hope you listened well to the former Chairman of our Energy Committee because he said it all and there isn't much more to say. I think we have fooled around this issue long enough.

This is a very small amount of valuable recycled material and the industry has set up a process so that many of the gable top cartons can be recycled so there will be a sizable reduction in the solid wastestream.

I ask you to support the Majority Report and lift the ban on these lightweight beverage containers.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to share with you the reason that I signed onto the Minority Report. If you pass this bill, the juice that you buy in aseptics will not be subject to the 3 cent handling fee but everyone else who sells juices will be subject to the 3 cent handling fee — it basically creates an unfair playing field, as we often say around here. It gives them a competitive advantage to the beverages that are sold in aseptic containers at the expense of beverages that are sold in glass jars or other containers. I just don't think it is fair or good public policy to pass laws like that, so I would ask you all to support the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: It is very clear to me listening to the debate that there is still considerable confusion over the difference between the two reports.

Both reports allow the sale of aseptic packaging and other multi-material beverage containers in Maine. Both reports allow that. Neither report puts any burden on the storeowner that they do not now have. Neither report puts any burden on small storeowners. Neither report makes these containers subject to the bottle deposit law, that is the 5 cent deposit, that's why it doesn't put any burden on small storeowners.

So, if you want to open the Maine market to aseptics, if you want aseptic packaging and other forms of multi-material beverage packaging to be available in Maine, both reports will serve that purpose.

To the extent that recycling aseptic occurs, it will include recycling of milk cartons but the Majority Report offers no incentive whatsoever to aseptic packages being recycled.

The Minority Report does give an incentive. It gives a choice, they can either recycle or they can pay a 3 cent handling fee. If they choose to pay a 3 cent handling fee, they will obtain the same fee every other beverage maker who sells in the Maine market now pays. If the Majority Report goes ahead, only aseptics and pouches will be exempt from that fee without conditions.

As Representative Mitchell just said, is it good public policy to give one form of juice container a significant, competitive advantage over another or should we in Maine strive to provide a level playing field for business?

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative True.

Representative TRUE: Mr. Speaker, Men and Women of the House: I have been confronted with this bill for a couple of years, primarily because my particular district borders along the western part of the state.

I thank Representative Adams for allowing us to read the material that is on this particular colored paper indicating that we should perhaps vote for the amendment because they have such rules in New Brunswick. That is a great deal of mileage from our western border, but you can step over the western border and go into the State of New Hampshire (and I wish that had been placed in here) because they do not have any of these particular taxes or requirements. I can tell you, and I feel that I am saying something that can be proven, and that is undoubtedly that we have more of these Mom and Pop stores on the western border because of the population and I can tell you we have more people going over the border to buy such things. The Mom and Pop stores need things that I think in the industry are called "leader items."

I think it is very important that we give the industry an opportunity to prove themselves. I have heard it said that it is no threat and let me tell you that this is what I heard when I met with 62 citizens in the town of Denmark when they were upset because the Tree Growth Bill changed. They didn't know and didn't think that that would ever change. We in the legislature are always looking for a little

more money, and I have a suspicion that perhaps if the amendment is tacked on, that when we need a little more money, whether we say right now we are not thinking about it, we certainly will.

I urge you to vote for the Majority Report.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I happen to be one of those small little Mom and Pop store people that everybody has been talking about here this morning.

It seems that people in the Minority Report are really not interested in the carton itself, the container, it seems they are interested in the 3 cent handling fee that they feel is not fair. Well, if we don't charge the 3 cent handling fee, that means we can sell the product for 3 cents less. I think what we should be concerned about today is what we are giving the consumer, because Lord knows we have tucked it to the consumer up here in Augusta for many, many years, and I think it is time we start realizing that we look to them.

If we find that this is getting to be such a problem, we can come back and look at it again at a later date, we always manage to do that when we need money for some other project, so just remember, let's pass the Majority Report here today. If we find that we are having problems with it later on, let's look at it again.

The SPEAKER: The Chair recognizes the Representative from Kennebunkport, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Ladies and Gentlemen of the House: As I look out across the chamber, it is quite obvious that many people feel we have visited this issue one too many times or that the debate has carried on too long.

I would suggest to you that the Majority Report, if you choose to pass that, will assure that this same debate takes place again in the near future.

The Minority Report, however, sends a clear message that there are two choices for industry and the legislature is not going to revisit this issue. It will be up to industry to decide whether they want to recycle on their own or whether they want to have municipal programs supported by the 3 cent handling fee to do that for them. We will not be back revisiting this issue in two years if you accept the Minority Report. It treats all multi-material beverage containers the same and it also sets a level playing field with all other beverage containers with the exception of dairy, as Representative Aliberti pointed out.

I would hope that you would support the Minority Report and allow aseptics back into the state with conditions that assure we get good recycling.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, Ladies and Gentlemen of the House: I don't like to get up a second time but I'm afraid that I've got to on this one.

The Minority Report gives you a list of percentages that you've got to get over a five year period. If you are going to recycle according to what I said the program will be, you are going to have paper cartons in there and you are going to have aseptic cartons in there. When that stuff is baled up, I want to ask you this question — how are going

to tell whether you have 10 percent aseptics in there or 50 percent? There is no way that you can tell.

Another thing, if you could do it, suppose in 1998 you have 39 percent, are you going to kick the program out because you missed it by 1 percent? I don't think that is practical. I think the best thing for all of us to do is go with the Majority Report.

Representative ADAMS of Portland requested a roll call on the motion to accept the Majority "Ought to Pass" Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The pending question before the House is the motion of the Representative from Waterville, Representative Jacques, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 250

YEA - Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Cashman, Clark, Clement, Cloutier, Clukey, Coffman, Cote, Cross, Dexter, DiPietro, Donnelly, Driscoll, Dutremble, L.; Erwin, Farnum, Farren, Foss, Gamache, Gould, R. A.; Greenlaw, Hale, Hatch, Heino, Hichborn, Hussey, Jacques, Jalbert, Johnson, Joseph, Joy, Kerr, Ketterer, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lipman, Look, Lord, MacBride, Marsh, Marshall, Melendy, Morrison, Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Ott, Paradis, P.; Pendexter, Pendleton, Pineau, Pinette, Plourde, Poulin, Pouliot, Reed, W.; Ricker, Robichaud, Rotondi, Ruhlin, Simoneau, Small, Stevens, A.; Strout, Sullivan, Swazey, Tardy, Taylor, Thompson, True, Tufts, Vigue, Whitcomb, Young, Zirkilton.

NAY - Adams, Beam, Bowers, Brennan, Carroll, Chase, Chonko, Coles, Constantine, Daggett, Dore, Farnsworth, Fitzpatrick, Gean, Gray, Heesch, Holt, Kilkelly, Kontos, Larrivee, Lemke, Lindahl, Michael, Michaud, Mitchell, E.; Mitchell, J.; Oliver, Pfeiffer, Rand, Richardson, Rowe, Rydell, Saint Onge, Simonds, Skoglund, Stevens, K.; Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Walker, Wentworth.

ABSENT - Cathcart, Faircloth, Hillock, Hoglund, Martin, H.; Martin, J.; Plowman, Reed, G.; Saxl, Spear, Winn, The Speaker.

Yes, 96; No, 43; Absent, 12; Paired, 0; Excused, 0.

96 having voted in the affirmative and 43 in the negative, with 12 being absent, the Majority "Ought to Pass" Report was accepted.

Bill read once. Committee Amendment "B" (H-798) was read by the Clerk and adopted. The Bill assigned for second reading Wednesday, March 9, 1994.

On motion of Representative DUTREMBLE of Biddeford, adjourned at 11:25 a.m., until Wednesday, March 9, 1994 at 9:00 a.m.