

MAINE STATE LEGISLATURE

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Senate Legislative Record

One Hundred and Twenty-Fourth Legislature

State of Maine

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The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (5/26/09) Assigned matter:

SENATE REPORTS - from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Resolve, To Examine Environmental Effects of the Dual Recovery System for Beverage Containers

S.P. 270 L.D. 733

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-195) (9 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (S-196) (4 members)

Tabled - May 26, 2009, by Senator **SCHNEIDER** of Penobscot

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-195)** Report

(In Senate, May 26, 2009, Reports **READ**.)

On motion by Senator **SCHNEIDER** of Penobscot, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-195)** Report **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-195) **READ**.

On motion by Senator **SCHNEIDER** of Penobscot, Senate Amendment "A" (S-284) to Committee Amendment "A" (S-195) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER**: Thank you, Madame President. Men and women of the Senate, I'm very pleased to report that additional work was done on this particular legislation. We have added some language to give additional strength to this piece of legislation which is a bill that will add a five member working group consisting of the Director of State Planning, the Executive Department or designee, the Commissioner of Agriculture or designee, and the Commissioner of Environmental Protection or designee, to work on a two-year study on the following: recycling rates, carbon footprint, comprehensive recycling program, barriers to comprehensive recycling, alternative models of sustainability, energy and economic efficiencies, the effect of educational programs on recycling rates, the potential role of opportunities for redemption centers and businesses as technology advances in recycling programs, and litter prevention and waste reduction efforts. This is a really terrific compromise that we've worked on. It will come from completely private funds. We wanted to make sure there was as little leeway for conflicts of interest so we developed this working group in order to prevent

that kind of conflict of interest and it will be completely responsible for dealing with funding for the study, distributing it, and finding an appropriate consulting firm to coordinate this issue. I hope you'll support this amendment. I think it's a really good compromise and it's been a great deal of effort on the committee's report. I would also like to thank my colleague, the Senator from Knox, Senator Rector, for working so diligently along with me on this amendment.

On further motion by same Senator, Senate Amendment "A" (S-284) to Committee Amendment "A" (S-195) **ADOPTED**.

Committee Amendment "A" (S-195) as Amended by Senate Amendment "A" (S-284) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-195) AS AMENDED BY SENATE AMENDMENT "A" (S-284)** thereto.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/29/09) Assigned matter:

SENATE REPORTS -from the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Amend the Laws Governing Bottle Redemption and To Establish the Department of Agriculture, Food and Rural Resources as the Agent in the State for the Purposes of Bottle Redemption"

S.P. 139 L.D. 397

Report "A" - Ought to Pass as Amended by Committee Amendment "A" (S-270) (8 members)

Report "B" - Ought to Pass as Amended by Committee Amendment "B" (S-271) (3 members)

Report "C" - Ought Not to Pass (1 member)

Tabled - May 29, 2009, by Senator **RAYE** of Washington

Pending - motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT** Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-270)**.

(In Senate, May 29, 2009, Reports **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Schneider.

Senator **SCHNEIDER**: Thank you, Madame President. Men and women of the Senate, I would like a few moments to share with you a little bit background on this particular piece of legislation. First, I would like to extend my thanks to my good colleague from York, Senator Sullivan for her tireless advocacy for her constituents and for redemption centers. There were many bottle bills brought forward this session and we worked very hard to try to bring all parties together to reach a compromise on these

pieces of legislation. Frankly, this is not where I had hoped to be since our work, unfortunately, was not fruitful in the end. Although this report does not raise the handling fee to 2¢ as had been suggested by my good colleague from Piscataquis, Senator Smith, it does raise the handling fee for redemption centers to 1¢. This is an issue which has been worked on for many, many years, 11 years, by my good colleague from York, Senator Sullivan. I hope you will support this raise which redemption centers have been waiting for over 20 years for. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you, Madame President. Men and women of the Senate, I urge you to defeat this motion and move to the Minority Report. I would suggest to you that this increase will put Maine as an outlier in the nation. We will be number one in the nation, yet again, on something and it will be in redemption fees that we are paying to our redemption centers. We will be at 4.5¢. That will be the highest in the nation. It is more than twice the rate that is paid in Connecticut and it amounts to an increase in cost to Maine residents of \$9 million a year. That's \$9 million a year in increased costs that will be absorbed by the citizens of the state of Maine. The handling fee was raised by a .5¢ five years ago, and at that time we found that we had a substantial number of new redemption centers open. The result of that was that although the fees went up, the pie was divided among more members and the result was that we still had our redemption centers struggling to survive. I urge you to defeat this motion and move on to the Minority Report. Thank you very much, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President. Men and women of the Senate, you should be getting a handout right now as I speak. I want to talk for a few minutes about something I've spent better than 11 years on, since I first ran for the other Body. The redemption centers were asked to do a job that the Maine people asked them to do through a citizen's initiative, and that was to find a way to work the bottle bill. Last year on this floor, I heard the statement, "While the redemption centers were never meant to be a business." Please don't tell that to redemption centers. They do a dirty business returning our bottles and doing better things for our environment. While it's true in half truth that five years ago they received a half penny, it was for co-mingling. Co-mingling was designed to allow companies like Coke and Pepsi to work together. Because of all the private things about their businesses, they didn't want to know the market share, they said, "Okay, we'll hire somebody, we'll co-mingle and we'll figure out where the deposit should go according to the percentage of market that you have." Well, that was great. We thought this would be great. Guess what? They then decided to form different size bottles. Take a look at the bottles you have been getting. The different shapes; 12.5 ounces, 18 ounces, the refrigerator pack, and the keg size. All of those now require a separate sorting. As far as the raise that my colleague from Knox County, Senator Rector, talked about, I would tell you that the \$9 million is a fallacy. On top of that, it is not to the consumers. The companies will simply raise their price. I want you to think. How do you take a half penny and pass that on to the consumer?

First, they will take a full penny, and I guarantee it will be more than a penny, and they will tell you, they being the bottle companies, they have to raise the price because of the redemption centers. I defy any of you to go to your redemption center and hear that the people who go there, that take those bottles, would be more than willing to pay a penny because they can't stand stuffing those machines full of dirty, ugly bottles. The redemption center does a dirty job. Every time we increase the minimum wage, and it has been eight times in the last 21 years, their price goes up. How do redemption centers make that money up? Coke and Pepsi are able to simply go out and raise their prices. Remember the redemption centers give out the money before they get it. My redemption center, this past year, had to stop at \$1,600. When they have taken in \$1,600 of bottles, they can no longer give out cash. The cash flow goes out and they don't get it back until they are picked up and 10 days later they get a check in the mail. I'll have you know that in many cases the check is postmarked 10 days later and it's at least two to two-and-a-half weeks before the check comes along. We've also had increases in Workers' Compensation. Redemption centers, which are not meant to be businesses, pay Workers' Comp. Redemption centers, which are not meant to be businesses, have paid increased property taxes. They pay payroll taxes and the federal taxes they need for a business. Oh yes, remember September 11, 2001, P and C went up for everybody. Property and casualty insurance, guess what? They need that insurance. It went up. There has been an increase in supplies; plastic bags are a petroleum product. Price went up. Accounting fees to do all of the work they need to do in order to meet the fed's requirements, the taxes here, and the State requirements. There has been an increase in utilities. Postage has gone up. Let's keep looking at that. They have no way to make a profit, except what was given to them 20 years ago. I defy any of you to be able to increase, in 20 years, your budget, even for your family, and live on a half penny per unit. My redemption center had five people working. They now, because of the cost of things going up, have two. They had to lay three off. There has been no support from the Department. We agreed to everything. The Senator from Penobscot, Senator Schneider worked very hard in difficult times. We made concessions on everything. It is my hope to put two pieces back into this at some time because the one thing on this I thoroughly agree with that the Senator from Knox, Senator Rector passed out is that a moratorium needs to happen. We need to pass this first. Because this is not an emergency, everyone will try to open up a new one and cash in on the big deal and they will go under. I would say, however, if the Department of Agriculture does what they should do, they will not have to register any new and all redemption centers must be registered by the Department of Agriculture. I am going to ask you to support this. I'm going to ask you to go back to your constituents, not the bottle companies, and say, 'Do you think our local redemption centers should have a penny?'. I think they will tell you yes. They will tell you, yes, it is a convenience. The cost of doing business seems to be okay for protecting everybody but somebody who cannot raise any prices. I would ask you to please support this amendment. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR**: Thank you, Madame President. Men and women of the Senate, I have a couple of other additions. I won't belabor this terribly long. We have 811 redemption centers licensed in Maine. We require that our bottlers, the initiators of deposit, pick up at every single one of those redemption centers. Once you get your license, we require that pick up occur. The result is we've got trucks going hither and yon, so as much as we think we're improving our carbon footprint, I think we could argue that it presents a problem here in Maine. By contrast, Massachusetts, Vermont and Connecticut combined, have less than one-fourth of the number of redemption centers we have here in Maine. I appreciate that we are a big state, but it seems to me that we are over-redemptioned and that's the reason we have so many struggling redemption centers. We did raise the fee a half cent five years ago when we went to co-mingling. That was an attempt to reduce the number of sorts and allow for redemption centers to operate more efficiently. I agree with the good Senator from York that it's a dirty, it's a challenging job, I think, for a lot of people and it's one we're grateful we do because they certainly keep our highways and roadways clear. One other thing I just want to mention is that if indeed the redemption fee was so terribly important, then I would wonder why are there so many redemption centers that one-day-a-week, several days a week, for large groups, and so on will offer a 6¢ redemption instead of the nickel back? It's because they can afford to forgo a portion of their redemption, the handling fee, because the volume is what is critical in this business. Our question is, how do we get the volume up for those centers? This bill doesn't address this issue and in fact, I think, if enacted we'll expand the number of redemption centers around the state and slice the pie up that much smaller. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Smith.

Senator **SMITH**: Thank you, Madame President. I just wanted to rise as the sponsor of one of the original bills on this subject matter this session and in support of the motion that is presently pending. I do so not because I'm a great fan of this system that we've created here in the Legislature years ago to handle these containers, but out of a sense of fairness to the folks this Legislature induced into this business. I think now we can fairly say that it's a regulated business. As a regulated business we, in the State Legislature, have a special responsibility to make sure that those that we have induced into this business are treated fairly and that they can, in fact, make a decent rate of return on their investment. In the electrical business we have a large bureaucracy called the Public Utilities Commission that assures the transmission and distribution companies that they will make a fair rate of return on their investment. In this business, which is another State-created business, there is no such entity and this Legislature is the sole place these folks can come to tell their stories and to get a fair rate of return on their investment. After such a long time, and as a legislator who has not been known to support fees of any sort, I think this is the fair thing to do at this time. I was pleased to be a sponsor of one of the original bills, and I hope you will support the Majority Report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN**: Thank you, Madame President. I just want to correct one thing that was said. 897 redemption stores are not real redemptions. Every store that sells beverages needs to be able to work and take back the bottles. In the case of Biddeford Bottle and Can, they work with 26 stores. They contract with 26 of them so those stores, even though they have the beverages to sell, do not have to take back any bottles. They put a sign up and they say their contract agent is Biddeford Bottle and Can and they do not take back any bottles. The reality is that it is down, even if you count the RVMs in every single grocery store. It is about 500. If you take out the grocery stores and you take up reverse vending machines, RVMs where you put something and you get money back. It is the reverse of what vending machines usually really do. They are not included in this because they don't have the manpower, they don't have the Workers' Comp, they don't have the manual labor, and they have the machines. There are two major companies that do that. This is really for the working men and women doing what we, as Maine voters, asked them to do. I would ask you to please support this. Thank you.

On motion by Senator **COURTNEY** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Accept Report "A", Ought to Pass as Amended by Committee Amendment "A" (S-270). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#141)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFKY, GOODALL, GOOLEY, HOBBS, JACKSON, MARRACHE, NUTTING, PERRY, PLOWMAN, RAYE, ROSEN, SCHNEIDER, SHERMAN, SIMPSON, SMITH, SULLIVAN, TRAHAN, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: COURTNEY, DAVIS, HASTINGS, MCCORMICK, MILLS, NASS, RECTOR, WESTON

27 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion by Senator **SCHNEIDER** of Penobscot to **ACCEPT Report "A", OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-270), PREVAILED.**

READ ONCE.

Committee Amendment "A" (S-270) **READ.**

On motion by Senator **RECTOR** of Knox, Senate Amendment "A" (S-286) to Committee Amendment "A" (S-270) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you, Madame President. Men and women of the Senate, this amendment does several things. It raises the redemption fee not by a penny but by a half penny to 4¢. It limits the number of redemption centers, a piece that I referred to earlier, so that all of the centers that are in place today are grandfathered in place. It allows the Department of Agriculture to promulgate rules around population for future redemption centers, so it sort of secures the market share so if rates go up we're not able to have an abundance of new centers opening and further reducing the pie that I spoke of earlier, that is to say redeeming the same number of beverages in a larger number of centers. It also has a couple of other very important components. It requires that any person who tenders 2,500 beverage containers or more has to supply their name and address information to the redemption center. The purpose of that is to reduce the number of containers coming over our borders and being redeemed and taking money from the redemption system here in Maine that have not had a fee paid into the redemption system here in Maine. We have a problem with that in the border town along the New Hampshire border and also along the Canadian border. This addresses that. It also clarifies the responsibility of the bags and standardizes, through rules from the Department of Agriculture, the bags that are used for the return of those beverages that the redemption centers use. It also exempts the largest containers from the redemption law. That is the very large water containers and so on that are problematic and take up a lot of space at redemption centers and are able to be recycled in other ways. Let's see if I've got all the details. I think that's it. It also requires the Department, who sets up rules for denial of licensees, to have an appeal process. I encourage you to look at Senate Amendment "A" to this bill and support that amendment.

On motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

Senator **SCHNEIDER** of Penobscot moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-286) to Committee Amendment "A" (S-270).

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Sullivan.

Senator **SULLIVAN:** Thank you, Madame President. Ladies and gentlemen of the Senate, I'm going to ask you to support that motion for a number of reasons. As I looked at this amendment, first of all the basic thing is it is the Minority Report with all kinds of more restrictions, protectionism for the big companies. The bag issue alone is something, the redemption centers have had to pay for but it has not gone up like it has now and it will be now in law that they have to pay for every bag. Not a shared cost. That would be fair between the big companies of Coke and Pepsi and beer. This will eat up more than the half penny that is in this amendment. The amendment also says that they are going to require licensing for redemption centers that we already have. There is another piece needs to be added to this. There will be an amendment forthcoming if it passes. This is an insult. It is worse than the Minority Report that you just voted against, with

more restrictions and more protection for big companies and less protection for the redemption centers. It makes no sense. I am extremely disappointed to see this come forward. I would have you know, with the exception of the bags, every single concession in here was one that we had agreed with up to the day of the third work session on this and it was turned down at the last moment. Everything with the exception of bags was agreed upon. It was part of an agreement and it fell apart. Now they take the half penny that was the Minority Report and they put all of these extra concessions that had already been agreed on before. We could have had this with the penny. I come from a background where you go to the table in good faith. I went to the table in good faith. I'm not sure that this has happened. You put the half penny in, which was the Minority Report, and then turn around and add more concessions in is wrong. It's still a half penny with lots of additional restrictions. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Rector.

Senator **RECTOR:** Thank you, Madame President. Obviously the passion that you're hearing in the voices of all of us indicates the amount of effort that went into this. I've addressed the bottle bills for the entire seven years that I've been in the Legislature, and they've come before us time and again. In fact, the good Senator from York, Senator Sullivan and I worked with a group one evening trying to come to terms on this. I would suggest that what I presented in the amendment are terms that were agreed to by a number of people. We came forward and had all the parties trying to work together to come to some commonality. I think we tried to achieve that here. I would just request that you read carefully. In fact, the protections there are protections for the redemption centers. By limiting the number of redemption centers and grandfathering those that are in, it protects their market share and gives them an opportunity not to have others step in and cause the further erosion of their market.

On motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Schneider to Indefinitely Postpone Senate Amendment "A" (S-286) to Committee Amendment "A" (S-270). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#142)

YEAS: Senators: ALFOND, BARTLETT, BLISS, BOWMAN, BRANNIGAN, BRYANT, CRAVEN, DAMON, DIAMOND, GERZOFKY, GOODALL, HOBBS, JACKSON, MARRACHE, NUTTING, PERRY, PLOWMAN, SCHNEIDER, SIMPSON, SMITH, SULLIVAN, THE PRESIDENT - ELIZABETH H. MITCHELL

NAYS: Senators: COURTNEY, DAVIS, GOOLEY,
HASTINGS, MCCORMICK, MILLS, NASS,
RAYE, RECTOR, ROSEN, SHERMAN,
TRAHAN, WESTON

22 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **SCHNEIDER** of Penobscot to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-286) to Committee Amendment "A" (S-270), **PREVAILED**.

Committee Amendment "A" (S-270) **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Sent down for concurrence.

Off Record Remarks

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Reform the Land Use and Planning Authority within the Unorganized Territories of the State"

H.P. 960 L.D. 1370

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

NUTTING of Androscoggin
BRYANT of Oxford

Representatives:

PIEH of Bremen
SMITH of Monmouth
PERCY of Phippsburg
McCABE of Skowhegan
PRATT of Eddington
KENT of Woolwich
O'BRIEN of Lincolnville

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-494)**.

Signed:

Representatives:

EDGEComb of Caribou
GIFFORD of Lincoln
CRAY of Palmyra

Comes from the House with Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.

Reports **READ**.

Senator **NUTTING** of Androscoggin moved to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in concurrence.

On motion by Senator **RAYE** of Washington, **TABLED** until Later in Today's Session, pending the motion by Senator **NUTTING** of Androscoggin to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Increase Access to Nutrition Information"

H.P. 878 L.D. 1259

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-481)**.

Signed:

Senators:

BRANNIGAN of Cumberland
MARRACHÉ of Kennebec
MILLS of Somerset

Representatives:

PERRY of Calais
PETERSON of Rumford
JONES of Mount Vernon
SANBORN of Gorham
CAMPBELL of Newfield
STUCKEY of Portland
EVES of North Berwick

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Representatives:

JOY of Crystal
LEWIN of Eliot
STRANG BURGESS of Cumberland