

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Ninth Legislature

State of Maine

Daily Edition

First Regular Session
beginning December 5, 2018

beginning at Page 1

SECOND READERS

The Committee on **Bills in the Second Reading** reported the following:

Senate As Amended

Bill "An Act To Clarify the Financial Reporting Responsibilities of Political Action Committees and Ballot Question Committees"
S.P. 641 L.D. 1869
(C "A" S-377)

Bill "An Act To Modify the Financial Disclosure Requirements for a Governor-elect"
S.P. 643 L.D. 1871
(C "A" S-376)

Bill "An Act To Increase Access to and Reduce the Cost of Epinephrine Autoinjectors by Amending the Definition of 'Epinephrine Autoinjector'"
S.P. 674 L.D. 1972
(C "A" S-379)

Bill "An Act To Make March Maine Childhood Cancer Awareness Month"
S.P. 719 L.D. 2029
(C "A" S-378)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Measure

An Act To Address Student Hunger with a "Breakfast after the Bell" Program
S.P. 99 L.D. 359
(S "B" S-373 to C "A" S-78)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for approval.

ORDERS OF THE DAY

Unfinished Business

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 Assigned (1/14/20) matter:

Bill "An Act To Ensure Proper Oversight of Sports Betting in the State"
S.P. 175 L.D. 553
(C "A" S-318)

Tabled - January 14, 2020 by Senator **LIBBY** of Androscoggin

Pending - **CONSIDERATION**

(In Senate, June 19, 2019, **PASSED TO BE ENACTED** in concurrence.)

(In Senate, Veto Communication (S.C. 806) **READ and PLACED ON FILE.**)

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Luchini.

Senator **LUCHINI:** Thank you, Mr. President. Mr. President, men and women of the Senate, I rise to urge you to override the veto of L.D. 553. Just for a quick bit of background. The reason that this bill came forward, along with six other bills from Legislators here, was because the Supreme Court in 2018 struck down a federal law and they said the states are now allowed to regulate sports betting within their borders. Since that time we've seen 20 states legalize and set up regulated systems within their states, most recently our neighbor New Hampshire who, in the first month alone, brought in over \$17 million in wagers. The rationale for these bills is largely because the illegal market in the U.S. is massive, as most of us know. It's been estimated by the American Gaming Association around \$150 billion bet annually, 97% of that through the illegal market. Just here in Maine, a couple of months ago, the U.S. Attorney's Office had a big illegal gambling bust where they seized \$13 million in assets and had the biggest year in seized assets from illegal gambling operations. Of course any time you book through a bookie or an illegal on-line website you run the risk that you don't get paid because they don't have anybody to account to. Our committee sought to create a regulatory structure that creates a safe, regulated system with consumer protections while generating revenues for the State. As I said, it's the product of seven bills that were submitted. We pieced them together, started from scratch. We had two days of public hearings, four days of work sessions, two line reviews.

We spent a lot of time trying to come up with this bill, which was inclusive to all of Maine's gambling sorts. So this bill would allow physical sports books at Maine's two casinos, the commercial harness tracks, each of Maine's tribes, and in the off-track betting facilities. This bill would also legalize mobile sports betting and it would allow those facilities that I just mentioned to

have a mobile license, as well as any qualified gaming operators from across the country. Those applicants would have to go through a rigorous process with our Gambling Control Board, undergoing financial credibility, sustainability checks, criminal background checks, the whole works. The same thing we apply to casinos in the state. I think it's worth noting that all of the Maine-based gaming entities, the commercial track at Scarborough, each of the Maine tribes, and off-track betting facilities support overriding this veto. The opposition today is completely from Maine's two casinos, who we know have a pretty strong monopoly hold on the gaming market here in the state.

So what this bill does is establish a tiered tax rate so we apply a lower tax rate to the physical locations at 10% and we assess a 16% tax to those mobile applications. We do so in recognition that those physical locations here in the state of Maine have employees. They have physical investments in that they pay property taxes. We've made dedicated tax revenues going to problem gambling and we require all the locations, whether it's physical or mobile, to comply with our strong player protections. We require blocking those players that are on the self-exclusion lists. We've mandated child support intercept for old child support and we require posting displays of responsible gambling, problem gambling numbers, and we give our gambling control unit the broad authority to regulate marketing and advertising.

As more data is becoming available from other states, we can see that many of the fears suggested by the brick and mortar casinos and their lobby, like cannibalization or job loss, just do not come to fruition. In fact, the exact opposite is true. Retail sports clubs have actually helped the casinos with their physical locations. We can actually see this in Penn National Gaming's own words, who is the corporate owner of the Bangor casino, in a recent investor release where they announced their acquisition of Bar Stool Sports. You may have seen just last week they said, 'Retail sports betting has already significantly benefited casino revenues at Penn properties, particularly at table game clubs.' So that's a direct quote from them and it directly contradicts what they're telling Maine legislators. They're telling their investors something completely different than they're telling those of us who sit in here. We can also look to New Jersey. Their Director of Gaming Enforcement said in the past year at a gambling conference, he said, 'Our experience with cannibalization is that it doesn't exist. Our casinos are doing as well as they did before sports wagering and before mobile wagering. They have not seen a decrease in revenue from the traditional games they offer.' He also noted that, 'You will have stakeholders who are fearing competition. There are certain technology companies that are new to the market, that are providing competition to traditional, old school operators who deal in casinos. That competition is good,' is how he concludes. We've also heard in the halls, I'm sure everybody's been lobbied extensively on this bill, from the casinos that this bill would allow for an unlimited amount of mobile apps for sports wagering and that is somehow dangerous. I would simply point out that, simultaneously, both casinos are advocating for a bill that allows unlimited on-line and mobile applications for horse racing. So, you can bet on horse racing but for some reason there is a stark difference when it comes to sports betting.

The other concept that's come up a lot is tethering. I think that's a topic that's frequently cited and that casinos are pushing. If you look at the Majority and Minority Reports of the bill, obviously those aren't before us, there are only three lines or four

lines difference between the two bills in a 25 page bill. It comes down to the concept of tethering. Tethering is a way in which the mobile applicants would have to tether their licenses to the physical locations here in Maine. They wouldn't be allowed to enter the market unless they tethered. Under those agreements, they pay a market access fee, it's what it's called, to the existing casinos just for the privilege of having a license. So the majority of our committee rejected this. This bill does not require tethering. We did so for three primary reasons. First, it's completely anti-competitive. We're allowing the casinos to decide who they get to compete against. The casinos seek to have mobile apps themselves. Secondly, this really amounts to a subsidy for the casinos. A lot of the early states who have adopted sports gaming have gone to a tethering model but there are states that have over built and over saturated their casino industries. Atlantic City's a prime example. They've used tethering as a way to prop up their failing, or struggling I should say, casinos. Here in Maine our casinos are doing great. There have been increasing profits and they do so because our state law gives them a monopoly. There are only two casinos allowed in the state of Maine. They have that monopoly. They do everything to protect it. To look outside the country, there are around 20 jurisdictions outside this country who allow for sports wagering and only one that I can find tethers, which is Belgium. Lastly, the reason why our committee rejected tethering is that it really is a method for the casinos to use the app to drive people into a casino. We know the demographic for sports betting is typically young men who are educated and have jobs. These are people who very rarely go to the casinos. It's a very valuable demographic that the casinos are trying to seek. So they want to use tethering as a way to give incentives for people to walk into the casino. Our committee didn't think that was appropriate for us to move forward with doing that, to either subsidize them or to encourage people to go play slot machines, which we all know are about the most addictive form of gaming that there is.

So I think to conclude, a lot of the fears that have been generated by the casinos and their lobby are really overstated. Sports betting, from the states we've seen, does not result in job loss or cannibalization. There's absolutely no evidence to support that. In fact, the evidence runs counter to that. So, again, I think this bill offers a safe, regulated system for Mainers who wish to bet on sports. It helps our retail locations who will now be able to offer it. Again, that's why all of the Maine-based retailers who would be eligible here are fully supportive of overriding this veto and I stand by the work that our committee did and urge you to override this veto. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Cyrway.

Senator **CYRWAY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise today to speak in support of sustaining the veto. As a member of the Veterans and Legal Affairs Committee, I have heard at length why this bill should or should not become law. For me, it comes down to the impact it will have on our state is the biggest part of this, as how it weighs on our state. Simply put, when there is a brick and mortar there is an investment. If you do not live in Maine you are not going to be as invested in the state as if you didn't have it. The same can be said about businesses. If a business is not physically present it is not going to offer the same investment. Currently, our casinos provide jobs, a safe place for gaming, and revenue generated not

just for gaming but from the monies spent on food, drinks, and lodging when people game here. Our casino has invested more than \$1 billion and collectively employ more than 1,000 people from every county in the state. I would also note that the casinos in Maine are heavily regulated by the Department of Public Safety and the Gambling Control Board. There are measures in place to provide a safe and responsible gaming environment, legal compliance, and good corporate citizenship here. Most states do tether with brick and mortar. There's like one or two that don't. There's a reason behind it. Mobile sports wagering will eventually come to Maine, we've no doubt in that, and the rest of the country but the legalization before us is bad for Maine. It is the wild wild west of sports betting. Under this legislation no investment in Maine is required. There's no limit on licenses and there is no requirement that the mobile licenses be tied to an existing facility, such as casinos, off-track betting, tracks, and tribes. As far as support, the sports betting, Maine does support that I believe, but when it comes to tethering I think that we have to look at what is best for Maine. I urge you to sustain this veto so that we can put this behind us and get to work on creating a responsible mobile sports betting law for the people of Maine. I've heard that from the Governor, that we do things for Maine, and that's what I think that she meant by vetoing this bill and I believe that that's a good decision. Thank you, Mr. President.

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

Senator **GUERIN:** Thank you, Mr. President. Mr. President, ladies and gentlemen of the Senate, I stand today in an effort to protect the spouses and partners and children who will be adversely effected by gambling expansion in Maine. Like substance abuse, gambling addiction is a real problem for Maine families. One of my favorite quotes regarding the State being involved in gaming is from Taylor Branch, the Pulitzer Prize winning biographer of Martin Luther King, and, by the way, Martin Luther King absolutely detested government being involved in gaming of any kind. Here is Branch's quote: 'State sponsored predatory gambling is essentially a corruption of democracy because it violates the most basic premises that make democracy unique: that you can be self-governing, you can be honest and open about your disagreements as well as your agreements, and that you trust other people that you are in this together. That's what a compact of citizens is and the first step away from it is playing each other for suckers. We're going to trick them into thinking they're going to get rich but in reality they're going to pay my taxes.' Please join me in sustaining Governor Mills' veto.

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

Senator **MIRAMANT:** Thank you, Mr. President. Men and women of the Senate, I was going to go on-line and bet this morning. You know I do it many days and I'm not doing great with it but airline pilots should just throw their money away when they start investing in the stock market. So I go on to buy Tesla because Monday was such a good day. Well, down they go. We can bet on-line now. A lot of our people bet on-line on sports. Some don't know that it's illegal. We're losing tax revenue. I wish we weren't in the gambling business, starting right at our own lottery, but we lost that battle. I wish it didn't cost so much to come in and lobby this Body to get a license for a casino that

excludes our indigenous people who live in economically depressed areas and really would like to have that option but can't afford the up-front money to get one against the onslaught of the out-of-state companies that have managed to get a foothold in and want to keep it all for themselves. So, this is a way to open it up to everybody. It's already partly opened up to the folks who have a few hundred dollars to put in the stock market and throw that away every day. I think we can do better than just restricting it to a couple of organizations that take a lot of the money out-of-state. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Pouliot.

Senator **POULIOT:** Thank you, Mr. President. Upon the release of the statement that the Governor was going to veto this bill, I read what was probably one of the most pithy statements from a Chief Executive ever. This was the Chief Executive of the State of New Hampshire, our neighboring state, who made his statement in just six words. It said: 'New Hampshire is open for business.' Hopefully Maine is still open for business as well. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Cyrway.

Senator **CYRWAY:** Thank you, Mr. President. I'm not a gambler. I don't gamble but I'm looking for the benefit of Maine and I believe that this is going to happen anyways, sports betting. I do believe that. I think that what we have to look at is there is a cascade that goes to tribes and we developed different cascades that go to the veterans and there's a lot of good things that comes out of the Gambling Control Board and I think that if we take the time and do it right we're going to be actually benefiting Maine rather than benefiting outside entities in other states. That's what I'm trying to say. Why not put this money where it belongs, in our state of Maine? Thank you, Mr. President.

The President laid before the Senate the following: "Shall this Bill become law notwithstanding the objections of the Governor? In accordance with Article IV, Part Third, Section 2 of the Constitution, the vote will be taken by the Yeas and Nays. A vote of yes will be in favor of overriding the veto of the Governor. A vote of no will be in favor of sustaining the veto of the Governor."

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#392)

- YEAS:** Senators: BELLOWS, CARPENTER, CARSON, CHIPMAN, CLAXTON, DESCHAMBAULT, DILL, FARRIN, FOLEY, HERBIG, KEIM, LIBBY, LUCHINI, MIRAMANT, MOORE, POULIOT, SANBORN H, SANBORN L, VITELLI, PRESIDENT JACKSON
- NAYS:** Senators: BLACK, BREEN, CYRWAY, DAVIS, DOW, GUERIN, HAMPER, LAWRENCE, MILLETT, TIMBERLAKE

EXCUSED: Senators: CHENETTE, DIAMOND, GRATWICK, ROSEN, WOODSOME

20 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 5 Senators being excused, and 20 being more than two-thirds of the members present and voting, it was the vote of the Senate that the veto of the Governor be **OVERRIDDEN**.

Ordered sent down forthwith for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

The President requested the Sergeant-At-Arms escort the Senator from Androscoggin, Senator **LIBBY**, to the rostrum where he assumed the duties as President Pro Tem.

The President took a seat on the Floor.

The Senate was called to order by President Pro Tem **NATHAN L. LIBBY** of Androscoggin County.

The Chair laid before the Senate the following Tabled and Later Assigned (1/14/20) matter:

Bill "An Act To Create a Credit under the Commercial Forestry Excise Tax for Landowners Using Businesses Based in the United States"

S.P. 80 L.D. 268
(C "A" S-218; S "A" S-277
to C "A" S-218)

Tabled - January 14, 2020 by Senator **LIBBY** of Androscoggin

Pending - **CONSIDERATION**

(In Senate, June 18, 2019, **PASSED TO BE ENACTED** in concurrence.)

(In Senate, Veto Communication (S.C. 807) **READ** and **PLACED ON FILE**.)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I just wanted to get up and kind of explain the genesis of this bill. I think this is at least the second version of this and what it is is pretty clear to me. When we talk about small business owners in Maine, and trying to make sure that they're doing as best they can, one of the things that has come up consistently, and I've passed out or had sent around a form, a 2016 Maine Revenue Services taxpayer evaluation, if you look on that form I think there's 50 companies on there that operate here in Maine as logging contractors or trucking

contractors and they are actually in Canada. Throughout that 50 members that are on that form you consistently see people that are not paying any personal property tax on their trucks or their logging equipment. You go down through there. It's pretty striking that this is happening. On the second page, Bison. That was a company that actually got caught for violating DOL H2A workers. Paying zero. It's just one right after another paying zero on personal property taxes. One of the ones that's in my area and has such large, significant amount of work, Transport Reggie. They too, I think they had 15 trucks, unlicensed, not paying any personal property tax in Maine. Clearly, the idea that Maine-based companies that are here in the state, they can't hide their equipment. They can't shelter it. They have to pay that personal property tax through their towns and this has been an on-going problem for the towns and for the counties that they operate in. So, this session, early on, I worked with the Professional Logging Contractors to go forward with a bill that incentivized. In the past I had tried to take away Tree Growth for people that violated this provision of Maine personal property tax. This time we tried to actually give an incentive for large landowners to hire people that was actually paying their unemployment taxes, their workers' comp, all the payroll taxes, and their personal property taxes. Very simple thing that, you know, could be done just to show when you come to this country that you've paid your current property taxes and all other taxes. We're not even, in this legislation we're not even asking for all of them. We're just saying that 75% should be paying this, still giving a break to some of these companies that are hiring Canadian loggers. I really don't know, you know, how we would not want to support something like this. You know, the Governor chose to veto it. In her veto letter she talks about there could be problems with residency requirements. We do residency for homestead in Maine. We do residency for marijuana growers in Maine, that they have to be residents. I mean, again here we're saying that these companies have to provide 75% of the workforce be Maine residents to get an incentive, not a penalty. An incentive. So they can still hire 25% Canadian companies that don't pay their taxes and all that. Get the unfair advantage. But, you know, something has to be done. When you look at this list of how many people that are actually getting away without paying taxes, it's a joke. You know, when we had the hearing no one testified as far as from Maine Revenue Services in opposition to this but afterwards we talked to them alone about the issue of trying to come to some language that would satisfy and we thought that we had worked the language so that it was constitutional, would work, wasn't, like I said, a penalty. It was an incentive for people to do the right thing. I mean, to treat Maine small business owners right is what we're asking for here today. Not to take away or give a penalty or anything like that. But one of the things that I found so striking about this when we talked to Maine Revenue Services, they were really up front, I felt, and one of the things they said that this list, after five years, if one of these companies hasn't come forward to pay their personal property taxes they just assume they're not here. Just drop them. They got a free run for everything. As you go down through this list, every one of these companies is working in Maine. We're going to hear a bill in Taxation today where I'm going to show where some of these companies have actually violated other laws and it's not me that's showing it. It's the Maine Forrest Service that actually did the inspections. But they're on this list of not paying their taxes today and if they don't come forward on their own they're going to get a free ride for the rest of their lives. They're just not here because they haven't