

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Sixth Legislature
State of Maine

Daily Edition

First Regular Session
beginning December 5, 2012

beginning at Page 1

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-397)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-397) **READ** and **ADOPTED**, in concurrence.

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

The Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Eliminate the Requirement That an Address Be Provided in Disclaimers on Political Radio Advertisements" H.P. 646 L.D. 922

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-403)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-403)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-403) **READ** and **ADOPTED**, in concurrence.

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

Senate at Ease.

Senate called to order by the President.

The Chair noted the absence of the Senator from York, Senator **TUTTLE** and further excused the same Senator from today's Roll Call votes.

Divided Report

The Majority of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act To Clarify the Laws Establishing the Department of Agriculture, Conservation and Forestry" (EMERGENCY)

H.P. 588 L.D. 837

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-339)**.

Signed:

Senators:

JACKSON of Aroostook
SHERMAN of Aroostook

Representatives:

DILL of Old Town
BLACK of Wilton
CRAY of Palmyra
HICKMAN of Winthrop
MAREAN of Hollis
NOON of Sanford
SAUCIER of Presque Isle
TIMBERLAKE of Turner

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

Signed:

Representatives:

JONES of Freedom
KENT of Woolwich

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-339) AS AMENDED BY HOUSE AMENDMENT "A" (H-354)** thereto.

Reports **READ**.

Senator **JACKSON** of Aroostook moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

Divided Report

The Majority of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** on Bill "An Act To Regulate and Tax Marijuana" H.P. 868 L.D. 1229

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

Signed:

Senators:

GERZOFISKY of Cumberland
DUTREMBLE of York

Representatives:

DION of Portland
CASAVANT of Biddeford
LAJOIE of Lewiston
LONG of Sherman
MARKS of Pittston
PEASE of Morrill
PLANTE of Berwick
TYLER of Windham

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-324)**.

Signed:

Senator:

PLUMMER of Cumberland

Representatives:

KAENRATH of South Portland
WILSON of Augusta

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **GERZOFSKY** of Cumberland moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

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

Senator **VALENTINO:** Thank you Mr. President. Members of the Senate, although I'm the Chair of the Judiciary Committee, I rise today because of my experience that I have had over the last eight years on the Veterans and Legal Affairs Committee. During my tenure on that committee I've seen the regulations of the liquor, the lottery, and the gaming, including the casinos. This led me to see things first hand, which leads me to believe that this bill to send out to the people of the state of Maine whether or not they want to regulate and tax marijuana is a good idea. First, this year, in particular, has highlighted how valuable the sale of liquor is to our state. It has been one of the most highly profiled issues of the session. It is a product that has been prohibited in the past, but it is now tightly regulated. In fact, it is so tightly regulated that Maine is a controlled state. The controlled state model ensures that we both have control over where the product is given at any point in the manufacturing, the distribution, or the retail process, but also ensures that we get the most value for every citizen in the state of Maine.

The second major point on my time on VLA is as it relates to casinos. How does marijuana relate to casinos? Easy. How many referendums have we had on casinos? Year after year after year after year after year, we constantly have had a referendum on casinos. The citizens of Maine got together and

they formulated these referendums with people who wanted them; people who put money in for themselves, instead of money for everybody in the state of Maine. They kept going and they wrote the rules instead of us writing the rules. I've advocated for years to get ahead of the casino issue. Every time it seems like there was a citizen initiative out there and we can't do it, we can't change it. The same thing applies to the marijuana issue. There is talk now of a citizen initiative going forward. Why are we going to let them write the rules like we did on the casinos? Why can't we take the initiative and write the rules and make sure it benefits everybody in the state of Maine, if there is revenue to be had by this? We did not get ahead of the casino issue and the regulations and the money have ended up in the statute before us the way they wanted it, not the way we necessarily would have written it. As you know, once it's passed by the citizens it is extremely difficult to change anything. That's why I'm saying we need to be the leader on this.

It is harder now for our youth to get cigarettes, alcohol, and to gamble. Why not then to buy pot or marijuana or whatever it's called? Why? Because these others are regulated. They are regulated. You need to be 21 years old in order to drink. You need to be 21 years old in order to gamble. You need to be 18 years old to buy a pack of cigarettes. If you want to buy any of these substances, which are addictive, which are bad for you, it's harder. We have made it harder because we control it. We do not control marijuana, so it's easier just to go buy it in school in the bathroom than it is to have to go down to the store to do it and have it illegal. We can see the writing on the wall. Let's not put ourselves in the same position of retroactively setting up a regulatory framework like Colorado and Washington have. They voted for it and now are in that position of having to set up the regulatory framework that the voters have already voted for on it. Let's put our referendum out there and see whether or not the people want it. This bill gives us the opportunity to learn from our mistakes in the past. If we wait and deal with the citizen initiative our hands will be tied. I think that if this goes out to the voters in November than we can have a year to work on the rules, the regulations, and have it come back to the 127th and see whether or not we're going to do it. That way we'll have plenty of opportunity to see what happens in Colorado, to see what happens in Washington, to get a fiscal note on this, to find out how much revenue it's going to be, how much it's going to take for a regulatory agency, and how to do it. We need to get ahead of the issue. We can't be standing here and ten years from now, like we've done on gambling, and say, "Oh, gee, maybe we should have done something because the people wanted it." We didn't do it and we've paid those consequences. Gambling and alcohol are addictive, but we allow them in the state of Maine and we regulate them. I'm saying the same should true with marijuana. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Plummer.

Senator **PLUMMER:** Thank you Mr. President. Men and women of the Senate, I rise today to agree with much of what the good Senator from York, Senator Valentino, just said. In fact, I've been able to scratch out about two-thirds of what I planned to say because she said it so eloquently. I know many of my constituents and colleagues are probably surprised that I rise to oppose the Ought Not to Pass report on this referendum. Before I talk about marijuana, and I'll resist the temptation to go through

the routine that those who were in the other Body with me last year have heard other than to say that when I was in high school hard cider was our drug of choice, so I know little about marijuana and the effects of marijuana. This bill does not legalize marijuana. This bill only asks the people: do you want to legalize marijuana? I can skip the parts about regulation that the good Senator from York, Senator Valentino, covered so well. I'm not even sure that I would vote for the bill, but I think it's important to ask people their opinion. The police did come out against legalization of recreational marijuana. If I recall, they also came out against the legalization of medical marijuana. One of their concerns was being able to identify marijuana as opposed to alcohol. The system already exists. If the people decide that they want to legalize marijuana I am confident the police will rise to the occasion and be able to identify when a person is driving under the influence of marijuana. I've also been told that this is against the federal law. Well, so was medical marijuana, or is medical marijuana, against the federal law. I think we're in a position where we do have an advantage if the people decide they would like marijuana legalized to see what happens in the other states that legalized it before we write the rules and regulations. I've also heard the argument that marijuana is a gateway drug. Over the years I've come to the conclusion that it's a gateway drug because the same people who are selling it are selling the other drugs. Not that I have full confidence in our government to regulate things, I would have more confidence in our government than I would a drug dealer. I would conclude my remarks by taking a line from the good Senator from Cumberland, Senator Gerzofsky, who likes to talk about driving the bus as opposed to riding on the bus. My concern is we may be faced with neither one of those, that the people's referendum, if it comes forward, may throw us under the bus. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President. Men and women of the Senate, I understand this bill today to really be about one subject. That is; do the people of the state of Maine get an opportunity to make a decision at the ballot box on this subject of whether marijuana should be legalized or not be legalized? I, for one, frankly, trust the voters to make the correct decision. We trust them to make the decisions about all of our elected officials. We trust them to make decisions about referendum issues. We trust them to make decisions in regard to marriage equality and many other things. I think we can fully trust the people of Maine to make this decision. I think the question we need to ask ourselves is: why don't we trust them? What are we afraid of? What do you think the outcome would be if we trust people to make an informed decision? I'm very confident that they will make the decision that's appropriate at the time. I think we should give them the opportunity to do that. I think it's also important to recognize the question isn't whether or not at some point the people of Maine will get to decide this by referendum. The question is simply: when and in what format will it be? I would much prefer if the voters of Maine made the decision that they thought it was appropriate that the Legislature retains control on drafting the laws and rules and regulations that would govern its use. Too often, when we allow the special interest groups who have something to gain by this to draft referendums on gambling and on many issues in the state, we wind up with laws that are

difficult to change and not, quite frankly, properly drafted. I don't think that's in the best interest of the people of Maine, to allow that to happen, simply because we may be concerned in what the people of Maine might decide.

I raised two sons with my wife. They are now young adults. Both my wife and I were concerns, as all parents are, about all of the temptations that are out there in society. Marijuana was one and alcohol was another and other drugs were another. We had serious and frank conversations with them regarding all of these matters, which I think all parents have and should do. Simply by not allowing it to a vote or allowing it to be legal doesn't change the conversation. In fact, the situation that we now have is that we have drugs in a criminal activity, in a criminal supporting criminal activity which may be for more drugs or more criminal activity. That is far more dangerous to my children, and the children of this state, if people who have no regard for the law, and are out for their profit, are controlling it. I find that far more dangerous to the children of this state than allowing an opportunity, if it's the choice of the people, to have it regulated and government controlled. You have no idea who they are associating with. No idea what the content of the substance is that they may be purchasing or the environment in which it's being sold. I believe that's far more dangerous to the children of this state and, frankly, to anyone who participates in illegal activities. We've certainly seen the results of hundreds of millions and billions of dollars going into the illegal drug trade and the kind of crime and murder and devastation. It is promoted not only in this society but in other societies in foreign countries as well.

I trust the people of Maine to make the right decision on this. I would much rather that we control the outcome of that, should they make the decision to proceed, rather than to allow a situation where we allow someone else to draft the terms and conditions on how it would be governed and managed and regulated. I would ask you to seriously consider what the better outcome is. What's better for the children of this state and for the people in our society? Frankly, I would ask you simply to trust the people of Maine to make a reasonable decision on this issue.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gerzofsky.

Senator **GERZOFSKY:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'm trying to be a little bit more mellow on this debate than I have been in some of my past ones, especially last Friday on ranked voting. This bill, which I was actually a co-sponsor of and sat through hours of debate in my committee, went from the far left to the far right and back again. I'd like to clear up some misconceptions. The voters sent us a bill once, a referendum, about term limits. I sat in the other Chamber when we attempted to change those, make them longer, make them shorter, or make them different. We could have done that here in the Legislature. The people sent it to us. We get to change laws. That's what the Legislature's all about, changing referendums here and there and regulate them. We chose not to change the term limit law. That was the conscience decision of the Legislature. When the people sent us medical marijuana, of course, I served on two task forces dealing with how to regulate it and how do you make it work. We're still trying to figure that one out. We're still trying to make it work better than we do. You can't charge a tax on something that's federally illegal. The State of Maine can't charge a tax on that. You can't make money on this. Who's going to say if what I have in a pouch came from my

backyard or it came from somebody else's backyard or I bought it in a store? You can't really do that. People, I'm sure, are going to send us a referendum. They will say either they want or they don't want marijuana to be legal in the state of Maine. It's only a civil offense now. You can have 2-1/2 ounces of marijuana with you. It's only a civil crime. You pay a fine. I think people will send us that and if they do then we are going to have to sit in Criminal Justice and Public Safety, not in Health and Human Services, and figure out how to regulate it. We're not going to sit and try to figure out how to tax something that the federal government has said is illegal and the Supreme Court said is going to stay illegal. Until you have a change in Washington that's the way it's going to be.

In committee we were very concerned about how this is going to impact our medical marijuana laws. That also is federally illegal. The federal government has said that if you are regulating it, and if the Legislature is passing it and the people are voting for it, they are not going to impact you. As soon as you do this, as soon as the Legislature sends this out, the federal government is going to send us a letter and they are going to be very concerned about what we're doing in a lot of other areas dealing with marijuana. That is what pretty much got me on the other side of Ought Not to Pass. I'm more concerned about the unintended consequences of sending a referendum out and, in my case, assuming the people will send it back to us in a positive way and then being a mess on everything else, knowing full well that those same people will probably go out and create a petition drive, and the people will probably sign it, and they will probably send it to us. If they do, we're going to have the time to sit down and we're going to look at it. We are going to say: how old are you when you can buy a joint? Are you 18 or 21? We are going to sit down and say: what are the ramifications of driving while you're stoned? Same thing as driving as you're intoxicated? We're going to sit down and figure out all those laws in Chapter 17A, or wherever we go, on how this is done. We're not giving up anything. The people will speak. They will vote. We will deal with it. Don't think that we're going to be able to tax any more than during prohibition we could tax alcohol. We couldn't do that. The federal government is going to figure out sooner or later that this is a war that they've lost. The gateway drug, in my estimation, is tobacco, period. That's the most addictive drug we have and it's perfectly legal and we tax it. I think that we have to give some time to see what happens in Washington, Colorado, Oregon, and everywhere else out west, because I don't want to jeopardize what we do have for people that need it very badly when dealing with cancers and other diseases that medical marijuana seems to have a very strong effect, no matter what the Supreme Court says. We're being allowed to do that because we're regulating it and we're dealing with it. We're not doing this. Ladies and gentlemen, I think we're going to have to talk about this again. Mr. President, I think it's going to come back and will demand our attention. Let the people send it to us. Let's get a clear message from the people and then we will deal with it as any Legislature will, by regulating and trying to make it make sense. Please follow my motion of Ought Not to Pass. You've heard the expression, not ready for prime time. This is as clear an example I know of not ready for prime time. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Millett.

Senator **MILLETT:** Thank you Mr. President. Ladies and gentlemen of the Senate, I understand on an intellectual level the arguments that are being made in support of this legislation. In fact, I have been back and forth on this issue many many times. Recently, with the passing of the law in Washington, my husband and I found ourselves in a very awkward situation, trying to explain to our two 14 year olds what the means for us, as a family, and the fact that the state has said it's perfectly fine to consume marijuana. We were not prepared for that. In the end, we said, "Thankfully, it's not legal in Maine and you will not consider the consumption of marijuana in your personal habits or future behavior as you go out into the world as a pre-adult." I am not ready to condone the consumption of another drug. I think, as a society, we are struggling with alcohol consumption with our children. Yes, it's regulated, but I'm here to tell you there are many many problems in our communities, with our children, around this drug. It has very serious consequences and continues to be the number one topic of discussion among parents, school administrators, law enforcement officers, and substance abuse counselors. At this point, I cannot possibly add one more drug to that conversation. I urge you to support the Majority Ought Not to Pass. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Thomas.

Senator **THOMAS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I trust the people of Maine to make an informed decision. I don't believe they can make an informed decision in this environment with all the misinformation that's floating around out there. I've seen too many of my family members addicted to this drug to give my endorsement to the use of the drug. I believe a vote to pass this bill is an endorsement. It's us endorsing the use of dangerous drugs. That's why I'll be voting for the current motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Burns.

Senator **BURNS:** Thank you Mr. President. Ladies and gentlemen of the Senate, it's really so good to be able to stand up and agree with some of my colleagues on the other side; the good Senator Gerzofsky and Senator Millett. That tells you where I'm going. We seem to be hearing something that I would call a foregone conclusion here that people of this state are going to automatically condone the legalization of marijuana. I don't believe that's the case. Nobody knows for sure until that happens, but I'm not going to go on that assumption. I was sent here to represent my constituents and to be a leader in the community. I intend to do that. The last thing in the world I intend to do is give my stamp of approval by voting to put this out and regulate it and tax it because that's exactly what I'd be doing, ladies and gentlemen. I would be giving my stamp of approval to do that. I think that, from my perspective, would be irresponsible.

I always think back to the 1970's, when I was sent for my very first drug training school as a police officer. I remember them talking about the pursuit of the perfect drug. It seems like, at least in recent history, we've constantly been on that pursuit of the perfect drug for society. Look where that has gotten us. Look at the substance abuse. Look at the addiction. Look at the carnage. Look at the traffic fatalities and the many other things that have come out of our pursuing the perfect drug. I think we

need to turn around and start moving away from the pursuit of the perfect drug because that's what this is all about. Marijuana, I can guarantee you from my perspective and my experience, is a gateway drug. I don't have the scientific evidence to support that, but I've seen it anecdotally many many many times. I've never dealt with an addicted person or a drug dealer that didn't start off with pot, with marijuana, exclusively. I can't think of a single one that hadn't started out with pot. I think about the complications that legalizing marijuana would have in this state as far as the enforcement of OUI in this state. We haven't come to the point and, as one good Senator mentioned, we might be able to adapt to it, but why do we want to? Why do we need to? There is enough carnage on the highways. I certainly agree that somebody that's under the influence of marijuana is a different type of individuals once you encounter them face-to-face. When you are following them down the street, and they are going from one sidewalk to the other, they are just as dangerous to me as somebody that's got a 4.0 blood test for alcohol. I agree that the writing is on the wall, but the writing that's on the wall to me is that if I put my stamp of approval on this, and this Legislature puts their stamp of approval on this, we're saying bring it on and there will be more problems for the state of Maine. I would urge you to support the pending motion. Thank you, Mr. President.

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

Senator **GRATWICK:** Thank you Mr. President. Ladies and gentlemen of the Senate, I wish to speak about this from a medical point of view. Marijuana is very complex. If we pass this we are making a very complex message simple and I think that is not appropriate. Three things. One, the adolescent brain, I'm sure we all know from both our personal experience from having all been adolescents at one time and having kids and others that we know, is very malleable. It's changing and it's very very responsive to different outside chemicals and structures. There is no question that marijuana, tetrahydrocannabinol, can have a major effect on the developing brain. Number two, there are definite psychiatric effects that are well documented by the use of marijuana. Studies both here in the United States, Portugal, Holland, Australia, and Sweden shows the instances of psychosis; psychosis being major mental changes such as schizophrenia, depression, and delusional disorders. The psychosis can increase significantly, two to four times more, than you would expect. I think, therefore, it is a very dangerous drug. It is a drug. It's not just for entertainment. Third, for a personal response to this, I had a classmate at college. When we were in Ratcliffe College she got summa cum laude. An incredible woman. She also smoked, this is early early on in this whole era, a great deal of marijuana. A year after college she had a schizophrenic break. Her life has been an extraordinarily sad life since that time. Does it make a correlation? Is it absolute? The answer is no. There was such a dramatic change from before to after that it is certainly very sobering to me. Therefore, I'm going to be supporting the Ought Not to Pass and I would urge others to do so as well because of the medical consequences and the message we send. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Gerzofsky to Accept the Majority Ought Not to Pass Report, in concurrence.

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 (#207)

YEAS: Senators: BURNS, CAIN, COLLINS, CRAVEN, CUSHING, DUTREMBLE, FLOOD, GERZOFSKY, GOODALL, GRATWICK, HAMPER, HILL, KATZ, LANGLEY, MAZUREK, MILLETT, PATRICK, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, YOUNGBLOOD, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: BOYLE, CLEVELAND, HASKELL, JACKSON, JOHNSON, LACHOWICZ, MASON, PLUMMER, SAVIELLO, VALENTINO

EXCUSED: Senator: TUTTLE

24 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **GERZOFSKY** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED.**

Divided Report

The Majority of the Committee on **VETERANS AND LEGAL AFFAIRS** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Restrict the Voting Privileges of Persons Incarcerated for Murder or Class A Crimes
H.P. 392 L.D. 573

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

Signed:

Senators:
TUTTLE of York
PATRICK of Oxford

Representatives:
LUCHINI of Ellsworth
LONGSTAFF of Waterville
RUSSELL of Portland
SAUCIER of Presque Isle
SCHNECK of Bangor

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-267).**

Signed: