

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-Eighth Legislature

State of Maine

Daily Edition

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beginning at Page 1451

Senator **SAVIELLO**: Thank you, Mr. President. Ladies and gentlemen of the Senate, so somebody is wondering why somebody like me is supporting this, being that I worked in the forest industry for 32 years. I'm going to read you what my good friend, the Senator from Aroostook, brought up. This is in an article in a newspaper. Solifor, a forest investment platform for funds in Quebec, has acquired the Ste-Aurelie Timberlands, a 24,910-hectare plot, for the investment, and this is the second investment outside Quebec, and it's to support, utilize, for the Quebec mills. Their press release included a quote by their President that said Solifor is planning other acquisitions to further secure the fiber supply for Quebec companies, making it a partner of choice for the forest industry. That's why I support this bill, because I'm really concerned. I'm really concerned at some point, if we don't put a flag in the ground or line in the sand, that we'll have a bigger problem. We'll be looking at all our logs, all our pulp wood, all our pellet wood, sitting on the coast of Maine getting to be shipped someplace else while our mills starve here at home. So I will be voting for this bill. Thank you very much, Mr. President.

On motion by Senator **CUSHING** of Penobscot, 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 Penobscot, Senator Cushing.

Senator **CUSHING**: Thank you, Mr. President. Could we approach the rostrum for a moment?

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Senate at Ease.

The Senate was called to order by the President.

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**THE PRESIDENT**: The pending question before the Senate is Acceptance of the Ought to Pass as Amended by - Report "A" Ought to Pass as Amended by Committee Amendment "A" Report. If you are in favor of accepting that report you are going to be voting yes. If you are opposed you will be voting no. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### **ROLL CALL (#608)**

YEAS: Senators: BELLOWS, BREEN, CARPENTER, CARSON, CHENETTE, CHIPMAN, DAVIS, DESCHAMBAULT, DIAMOND, DILL, DION, DOW, JACKSON, LANGLEY, LIBBY, MILLETT, MIRAMANT, ROSEN, SAVIELLO, VITELLI, WOODSOME

NAYS: Senators: BRAKEY, COLLINS, CUSHING, CYRWAY, GRATWICK, HAMPER, KATZ, KEIM, MAKER, MASON, VOLK, WHITTEMORE, PRESIDENT THIBODEAU

EXCUSED: Senator: HILL

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **DAVIS** of Piscataquis to **ACCEPT** Report "**A**" **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-447) PREVAILED.**

Bill **READ ONCE.**

Committee Amendment "A" (S-447) **READ** and **ADOPTED.**

**ASSIGNED FOR SECOND READING NEXT LEGISLATIVE DAY.**

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Off Record Remarks

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**RECESSED** until the sound of the bell.

After Recess the Senate was called to order by the President.

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#### **ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled matter:

The Joint Select Committee on **MARIJUANA LEGALIZATION IMPLEMENTATION** on Bill "An Act To Implement a Regulatory Structure for Adult Use Marijuana" (EMERGENCY)  
H.P. 1199 L.D. 1719

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-733)** (16 members)

Minority - **Ought To Pass as Amended by Committee Amendment "B" (H-734)** (1 member)

Tabled - April 11, 2018 by Senator **KATZ** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-733)** Report, in concurrence

(In House, the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-733)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-733).**)

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

Senator **KATZ**: Thank you, Mr. President and men and women of the Senate. To quote the Grateful Dead, 'What a long strange trip this has been,' over now 16 months of this Legislature. It starts with the passage of the Citizen Referendum in 2016, the Marijuana Legalization Act which allowed for personal use and personal possession of small amounts of marijuana. It was 29 pages long, the bill associated with that referendum, and it had significant gaps and problems with that bill, including the fact that actually, technically, it did not make it illegal to sell marijuana to minors. So the Legislature and the Leadership appointed a 17 member bi-partisan committee, the Marijuana Legalization Implementation Committee, to try to come up with an intelligent regulatory system for what's entirely a new industry in the State of Maine. I was proud to serve along with several of my colleagues in this Body; Senator Dion, Senator Deschambault, Senator Maker, and Senator Rosen. I think we all feel we spent way too much time together. Several of us didn't vote for this referendum. I didn't, but I think we all realized it was our responsibility to make this work, to carry out a legitimate vote of the people, but to do so in a smart way that learned from the experience of others, and the principles which guided us were to protect the safety and wellbeing of Maine residents who chose to participate in this market; to set up a rigorous licensing system; to provide a strong entrepreneurial edge for Maine residents, giving them first crack at the opportunities that this new industry creates; to ensure local control through an opt-in system so that communities decide for themselves if they want to license this activity or not; to discourage diversity to the illegal market; and fairly tax these new businesses. As you know, L.D. 1650 passed this last session, was vetoed by the Chief Executive, and the veto was sustained in the other Body. So we went back to work over the last four months and we listened and we listened and we listened and talked to all the stakeholders, certainly, again, looked at other states and what they had done, and the product of our work is here before you, this L.D. 1719, which did get voted out of committee 16-1 Ought to Pass. So, I just wanted to spend a few minutes just talking about the basic structure of what we did so that there were no questions.

The first thing we did was removed the control of this new enterprise to DAFS, the Department of Administrative and Financial Services, and also moved, in its entirety, the medical program from where it had sat in HHS over to DAFS. The reason for this was that, first of all, the Department of Health and Human Services, let's face it, really wasn't regulating medical marijuana and wasn't doing a very good job of it. Didn't want anything to do with it, frankly. It makes sense to have these two housed in the same - under the same department so that things like testing can be done in a uniform way in both systems so things like labeling and advertising can also be done in a consistent way. But just make no mistake about it, please, the medical system is remaining entirely separate from the adult use market, entirely separate, and this bill is full of references to how nothing we have done affects anybody's rights or anybody's privileges under the medical marijuana law. In particular, those people who are concerned that somehow children who are now medical marijuana patients would lose their ability to get the products which helps them so much, that's just absolutely not so and we made very, very clear about that. Then we set up a licensing system. Four types of licenses: nursery license, cultivation facilities, manufacturing, testing facilities, and retail store. We said that not everybody can get a license. You've got to be 21 years old. We gave a real preference here to Maine residents by

a four year residency requirement, saying that if it's a business, whether corporation or a LLC or a partnership, majority ownership of that business has to be Maine residents. No disqualifying drug offenses and someone can't be a State employee or a member of law enforcement. We were consistent, Mr. President, in trying to do everything we can to protect children and other users. Very strict packaging restrictions, very strict labeling requirements, very strict advertising restrictions so that this will not get into the hands of kids to the extent we can control that. We also - the only money we were taking from the General Fund in all this, there's no cascade, there's no special this for this person or this for this group, but we did take 12% of the gross revenue and we're using 6% of it for a public health fund, public awareness fund, to make people aware of some of the risks of using marijuana, particularly edibles, which don't take effect for - you don't get the effect from them for quite a period of time after you eat them, and we want to direct this primarily at kids. So it took a good chunk of money into public safety campaigns and we took another chunk of money, another 6%, specifically for law enforcement, to help train drug recognition officers so that they can better deal with the new challenge that the use of marijuana may present in order that we can keep our roads safe. We also made sure that no marijuana establishment can be within 1,000 feet of a school and we got a seed-to-sale tracking system, a bar code if you will, that is going to make sure that all this marijuana is tracked right from the beginning of cultivation all the way through the end product so we can make sure that people are complying with the law and so we can keep track of it for tax purposes.

A central portion of this, Mr. President, is local control. It's clear that some communities are more willing to be involved in this than others and so we have a very strict opt-in provision in this law so that if your town or your city, or any town, decides they don't want to have commercial activities in their town, whether it's cultivation or product production or retail sale, they don't have to. We made it an opt-in system so that if a community does nothing it means that there won't be any commercial activities in that town. The town has to affirmatively vote to do it. Municipalities are given full control beyond that to further regulate marijuana so that we - communities in some parts of the state have a very different attitude about this than others and we wanted to honor that. Also, Mr. President, municipalities will be made whole, we believe, because municipalities can charge for application fees for the local licenses and recoup some of their expenses that way.

We've also got a marijuana advisory committee that's going to keep track of how this thing rolls out and make recommendations to future Legislators - Legislatures about changes in the law. Just a few weeks ago we passed Senator Deschambault's bill which allows for restaurants to use bump-outs out on the streets and serve alcohol. Prohibition was done away with 85 years ago. We are still tinkering with our alcohol laws. This is not going to be the final version of this either. There'll be lots of opportunities in future years for changes to this law.

Home cultivation, we are allowing - the bill provides for three mature plants, but it also provides for people to have the ability to sign up with somebody else on another parcel of land to grow their three plants if they want to.

In terms of taxation, Mr. President, some states are taxing marijuana very heavily. Other states not so much. We tried to thread the needle and be right in the middle of the pack. I think that's what we've done. We've got a 10% sales tax at point of sale and an excise tax at the cultivation level, which is based not

on price but on volume, of the equivalent of 10%. In every other state which has done this, and done it well, has an excise tax as well as a sales tax, and the reason is it helps you keep track better of where the marijuana is in the process so we're, hopefully, again discouraging diversions to the illegal market, but also because we've seen from other states the price, the retail price, of marijuana goes up and down quite a bit. Excise tax stays pretty steady and so it made sense, for financial planning, to do that as well. Again, all the revenue will go to the General Fund except for the 12% I mentioned earlier. The projections from the Fiscal Office are that once this thing is up and fully running it should generate tax revenues of about \$23 million a year.

As you make the decision whether to press your red button or your green button today, you're not deciding whether you like marijuana or not. You're really deciding between two bills, this bill, which is before you today and the original Marijuana Legalization Act. So if you think this is a better bill, or there may be some of you who think it's a least - less bad bill, hopefully you'll vote for this bill because if you don't, and this bill is somehow defeated, we will be left with the Marijuana Legalization Act. I'd just like to mention a few implications of that so we're clear because if you vote for this bill there will be money allotted for child prevention. Not in the other bill. This bill will allocate money for law enforcement training. Not the other bill. This bill will prohibit internet sales. Prohibit home deliveries. Prohibit drive-thru windows. Not in the other bill. This bill has a very strong prejudice in favor of local control, an opt-in. Not the other bill. This bill has significant civil penalties for violators of this regulatory scheme. Not the other bill. This bill has an effective tax rate of 20%. Not the other bill. This bill prohibits delivery services. Not the other bill. This bill prohibits social clubs, but not the other bill.

Mr. President, I'm - this was a 17 member committee, all the way from people who think marijuana should be treated almost like any other plant to people who have real problems with doing anything to legalize marijuana. We were able to get a 16-1 vote. Kind of like a budget bill in that sense. There's a lot of compromise that had to be made to get there. So we're proud that we have collectively done our job and hope we'll have your support. If for some reason this bill fails, the cheers you will hear will be from those who profit from the current illicit gray market, who don't want to be licensed, who don't want their products tested and appropriately labeled, and who don't want to pay taxes. So I hope you will have your - the support of each and every member of this Body on this bill, Mr. President, and I request a roll call.

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 Cumberland, Senator Dion.

Senator **DION:** Thank you, Mr. President. Ladies and gentlemen of the Senate, first I'd like to extend my appreciation and congratulations to my colleagues from this Chamber who worked on the Committee. It was work. I'm proud of the fact that we took the time to hear all the opposing views and did our best, as reflected in this bill, at drafting a consensus document that would advance the best interests of the people of this state and once

and for all declares that the mere relationship with the plant should not be a predicate for criminalization. I'll close with just a piece of history. My good friend from Kennebec spoke of prohibition. I would like to shutter that down a little bit. In 1999, as newly minted sheriff, I appeared in this Capitol and stood before a committee with a proposition that cannabis seized as a consequence of law enforcement investigations should be sequestered and redistributed to people who were ill, challenged by catastrophic or chronic disease. The *New York Times* later reported what a radical departure from mainstream thinking that was and I was treated accordingly by the members of both Chambers. We weren't ready. Good ideas need time and time has passed and today I stand proud, Mr. President, when this Chamber's on the verge of making a decision that I will always remember as that young sheriff who walked up the stairs here to advocate on behalf of what was going to become the medicinal marijuana community. Thank you very much.

**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 as a man who feels that I have to be the children's voice today in the State of Maine. They had no opportunity to vote for legalizing marijuana. They have no opportunity to tell parents not to do it. This is normalizing the use of pot, marijuana, weed, skunk, Maryjane, whatever you want to call it. This a Schedule 1 drug, which is the same category as heroin and cocaine. So is it okay to say that heroin can be in your household and say that it's okay if you only have a certain amount for your kids to be able to have access to? Is it okay to have fentanyl in your house or cocaine and say it's okay? I am speaking from the kids' point of view and saying I want my home safe and I want my parents to be safe. Let's not look at what is good for an adult to be able to have their own choice on what they do or whatever they use. Let's look at our kids, which is our most precious commodity in the State of Maine. I thank you for the hard work, put in the position that these Senators have been put into to take care of this commission, trying to figure out a way to govern and trying to make this as safe as possible. But it's like trying to make something bad or worse. This is really terrible and terrible. There is no bad or worse in this. I feel that we have lowered our standards. We've lowered our standards to make this a normal thing to do, smoke pot, and you're going to go in your streets and you're going to smell it and it's going to be on your clothes, and then you have businesses and you also have professionals that are going to have certain standards that they can't meet.

Under the Controlled Substance Act cannabis is treated like every other controlled substance, such as cocaine and heroin. The federal government places every controlled substance in a scheduled - in a principle according to the relative potential for abuse and medicinal value. Under the CSA, which is the Controlled Substance Act, cannabis is classified as a Schedule 1 drug, which means that the federal government views cannabis as highly addictive and having no medicinal value. The doctors may not prescribe cannabis for medical use under federal law and they can recommend its use under the First Amendment. The federal government claims that the marijuana is not medicinal and it is *Gonzales v. Raich* in 2005 the United States Supreme Court held that the federal government has the constitutional authority to prohibit marijuana from all purposes; including knowingly open,

lease, rent, maintain, or use property for manufacturing, storing, or distribution of controlled substances. Ladies and gentlemen of the Senate, we are putting our businesses at risk here. If we say this is okay they could lose their business. It could be a situation where we're putting them in harm's way. We're putting our children in harm's way. I am taking a strong stance and saying no to marijuana because it is harmful to our state.

I am sworn to uphold the Constitution. I am sworn to take and protect this state, whether it's in favor of the popularity vote or not I have to do that, and I feel that I am sometimes the sole person that feels that way on the drug issue, but it's not. I know a lot of you would vote against marijuana if they could, and I know that, but they're put in this position, in a very tough position, where they've got the commission that's been put together here, and there's been a lot of work done, and now everybody's expected to hold hands and surround each other and sing kumbaya and say it's okay. Well, I can't do that. I've been in law enforcement for 30 years, 25 of it as being a DARE officer, and I've worked with kids and these kids look up to their parents as they are the world's best person in the world and then you're going to say it's okay to smoke pot and say that kid's going to look up to that person and say, 'Yup, that's just who I want to be.' That is wrong. What are we doing here? I am just appalled at how this is going down. I am voting no for every marijuana piece here and that's my stance and thank you, Mr. President, for this time. I appreciate it so much, and thank you all for listening.

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

Senator **BRAKEY:** Thank you, Mr. President. I'll start by saying, to be blunt, I don't care what Washington D.C. thinks about this issue. Washington D.C. has no constitutional authority on this issue. This is something that Maine people have a right to decide for Maine people here in Maine. This is not something that some city 500 miles away gets to dictate our policy to us. Now I carry my pocket Constitution around with me every single day. I swore an oath to uphold this Constitution just the same as everyone else in this Chamber. I just want to open up for us all the 10<sup>th</sup> Amendment of the United States Constitution. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people. That's the 10<sup>th</sup> Amendment of our U.S. Constitution. If you open up Article 1, Section 8, where we listed out the powers granted to Washington D.C., nowhere in there will you find anything that gives them supremacy over the issue of cannabis policy. That policy rests with us on the State level. That's our responsibility in the Maine Legislature, and so as we debate this proposal before us we should debate it not based on what Washington D.C. tells us we should do. Frankly, I don't recognize their authority on this. But we should debate it based on what is good policy for the people of Maine. I will say it is with reluctance that I will be voting no on the bill before us today because of the substance of policy issues. Personally, I think some of the restrictions go too far in restricting what people can do on their own private property. I think some of the taxes are too high. I voted for previous bill we had last year, but I think that - I have some disagreements with this bill before us today. But I just want to make sure, as we are having this debate here, we have the debate on the substantive policy, the substantive policy which is our responsibility in the Maine Legislature. Thank you very much.

**THE PRESIDENT:** The pending question before the Senate is Acceptance of the Majority Ought to Pass as Amended by Committee Amendment "A" Report. A roll call has been ordered. If you are in favor of accepting that report you will be voting yes. If you are opposed you will be voting no. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#609)**

YEAS: Senators: BREEN, CARPENTER, CARSON, CHENETTE, DESCHAMBAULT, DIAMOND, DILL, DION, DOW, GRATWICK, HAMPER, KATZ, KEIM, LANGLEY, LIBBY, MAKER, MILLETT, ROSEN, SAVIELLO, VITELLI, VOLK, WHITTEMORE, WOODSOME, PRESIDENT THIBODEAU

NAYS: Senators: BELLOWS, BRAKEY, CHIPMAN, COLLINS, CUSHING, CYRWAY, DAVIS, JACKSON, MASON, MIRAMANT

EXCUSED: Senator: HILL

24 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **KATZ** of Kennebec to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-733)** Report, in concurrence, **PREVAILED**.

Bill **READ ONCE**.

Committee Amendment "A" (H-733) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, Bill **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-733)**, in concurrence.

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Off Record Remarks

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All matters thus acted upon, with the exception of those matters being held, were ordered sent down forthwith for concurrence.

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On motion by Senator **VOLK** of Cumberland, **ADJOURNED** until Thursday, April 12, 2018 at 10:00 in the morning in memory of and lasting tribute to Sam Mercer of Scarborough.