

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Twelfth  
Legislature***

OF THE

STATE OF MAINE

**Volume I**

**FIRST REGULAR SESSION**

**December 5, 1984 - June 20, 1985**

which was passed to be enacted in the House on April 24, 1985.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-59) in non-concurrence.

The House voted to recede and concur.

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

Thursday, April 25, 1985

ADMINISTRATIVE SUPPLEMENT

Reference is made to (H.P. 445) (L.D. 627) Bill "An Act to Protect Lobster Gear"

In reference to the action of the House on Monday, April 22, 1985, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative ROLDE of York  
Representative COLES of Harpswell  
Representative RICE of Stonington

At this point, Speaker Martin appointed Representative Gwadosky of Fairfield to act as Speaker pro tem.

The Chair laid before the House the following matter: Divided Report, Majority Report of the Committee on Human Resources on Bill "An Act to Regulate Smoking in Retail Food Stores and Restaurants" (H.P. 269) (L.D. 339) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Require Notice of the Smoking Policy in Restaurants" (H.P. 970) (L.D. 1379) and Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill which was tabled earlier in the day and later today assigned pending acceptance of either report.

Representative Nelson of Portland moved acceptance of the Majority "Ought to Pass" Report in New Draft.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Nelson.

Representative NELSON: Mr. Speaker, Ladies and Gentlemen of the House: The bill, initially, read "An Act to Regulate Smoking in Retail Stores and Restaurant" and it was changed in committee to become a new draft, L.D. 1379, which says: "An Act to Require Notice of the Smoking Policy in Restaurants" and that is what it does.

By the time we got through rewriting it, there was no opposition from any restaurateur, the Chamber of Commerce, or any people that thought this might interfere with business. It simply states that a restaurant owner or his designee shall notify each patron of the policy on seating for smokers and non-smokers. This notification may be verbal or may be a sign prominently displayed at or near the entrance. The restaurant shall encourage their patrons to make their seating requests known.

It is a simple, straight forward beginning to a policy that we hope in time will make a difference in people's eating habits and their lives.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: Having voted in the minority, I feel like I should explain to you why I am voting against this bill.

If you check your records, it will show that I voted for the very good bill that we had already put out this session on smoking. Representative Nelson put out an excellent bill. People already know that we mean it when we say that there has to be some clean air for the smokers. However, this particular bill came to our committee and the Maine Lung Association came in and testified, neither for nor against, and the reason I feel that I have to vote no on this bill is because I feel that it is a nothing bill. Currently, the Maine Lung Association puts out a very nice little sign here

and let me read what it says: "For your total dining pleasure, this restaurant provides smoking and non-smoking areas. Let us know your preference before you are seated." The Restaurant and Innkeepers Association said they would be willing to pick up these signs from the Maine Lung Association and mail them out to all the restaurants. I am saying, to ask them to do more than this is just harassment. So all I would say is, let us go ahead and vote no on this.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Nelson.

Representative NELSON: Mr. Speaker, Men and Women of the House: We tried that six years ago, we tried to have a stronger bill about smoking in restaurants and the restaurants in turn said, let's try it, leave us alone, and we will do the best we can. In the course of the two years between that bill and the next one, four years later, very little was done. Two years later, another bill came in and the restaurateurs said, let us do it, don't mandate, leave us alone, we will do it. Well, they didn't do it and now we are back again with this. A simple little bill. Granted perhaps, it should be stronger but it isn't, it is a beginning where the state is saying, do something. We tried to do it on a voluntary basis and you are not quite making the grade.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Limestone, Representative Pines.

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: If you will look at your bill, it says: "this notification may be verbal or may be by a sign prominently displayed at or near the entrance." That sign that Representative Melendy is advocating is a sign that would state that so that I hope that all of you will support this bill because it is a bill that only states or puts up a sign as to your smoking preference when you enter a restaurant. It is very important to those people who are allergic to smoke and have a problem with breathing.

Representative McCollister of Canton requested a roll call.

The SPEAKER PRO TEM: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and, obviously, more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

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

ROLL CALL No. 45

YEAS:—Aliberti, Allen, Beaulieu, Begley, Bell, Bost, Bott, Boutlier, Bragg, Brannigan, Cahill, Carroll, Cashman, Clark, Coles, Connolly, Cooper, Crouse, Crowley, Daggett, Davis, Dellert, Descoteaux, Dexter, Diamond, Drinkwater, Duffy, Farnum, Foss, Greenlaw, Harper, Hichborn, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Hoglund, Jacques, Kimball, Lander, Law, Lawrence, Lebowitz, Lord, Manning, Masterman, Matthews, McHenry, McPherson, Mills, Mitchell, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, G.G.; Nelson, Nicholson, O'Gara, Paradis, E.J.; Pines, Pouliot, Priest, Randall, Reeves, Rice, Richard, Rioux, Roberts, Rydell, Scarpino, Sherburne, Small, Smith, C.B.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Swazey, Taylor, Vose, Walker, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

NAYS:—Baker, A.L.; Bonney, Brown, A.K.; Brown, D.N.; Callahan, Carter, Chonko, Connors, Cote, Dillenback, Erwin, Foster, Hale,

Handy, Hayden, Hepburn, Holloway, Ingraham, Jackson, Jalbert, Joseph, Lacroix, Macomber, Martin, H.C.; Mayo, McCollister, McGowan, McSweeney, Melendy, Michaud, Moholland, Nickerson, Paradis, P.E.; Parent, Paul, Perry, Racine, Ridley, Rolde, Rotondi, Ruhlin, Salsbury, Simpson, Smith, C.W.; Tammaro, Tardy, Telow, Theriault.

ABSENT:—Armstrong, Baker, H.R.; Brodeur, Carrier, Gwadosky, Kane, Lisnik, MacBride, Michael, Nadeau, G.R.; Seavey, Strout, Warren, The Speaker,

89 having voted in the affirmative and 48 in the negative with 14 being absent, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for Second Reading tomorrow.

The Chair laid before the House the following matter: Divided Report, Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Prescribe when a Caboose is Required in Connection with Movements of Locomotives and Cars" (H.P. 50) (L.D. 56) and the Minority Report of the same Committee reporting "Ought to Pass" on same Bill which was tabled earlier in the day and later today assigned pending the motion of Representative Theriault of Fort Kent that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Fort Kent, Representative Theriault.

Representative THERIAULT: Mr. Speaker, Members of the House: This has been a very difficult bill for the committee. As you can see from the L.D. number, it has been with us for a long time — as a matter of fact, since February. Part of the reason that it was with us for so long before reporting it out is that we needed to do a lot of research because this bill was presented to us as a safety issue and we take that very seriously in our committee.

As we progressed with the research on the bill, it became apparent that, maybe, the real issue was not safety; consequently, the majority of the committee decided to report the bill "Ought Not to Pass." In support of our decision, I would like to offer some of the points that we considered in our decision making.

First of all, in 1982, the United Transportation Union negotiated an agreement with the railroads of this nation. Maine's railroads were also included in that agreement and one of the things that that agreement did was that it allowed the elimination of cabooses on trains if it would be negotiated by both management and labor. This agreement is still in effect today. In return for this concession, the unions received certain consideration. This recommendation was based upon an agreement and the recommendation of the Presidential Advisory Board on railroad matters.

The agreement said in part that, like I mentioned before, that this was a negotiable item. It also mentioned that, if for some reason, an agreement could not be reached by both parties, that this could be put to arbitration. As we progressed through our study of this bill, it became apparent that it really was not a safety issue and this is why that the majority of the committee is on the side that it is because we felt that safety was not a negotiable item. If you take a look at the bill, you will see that the first line of the bill says that this is negotiable, this item. The bill itself says that and then in the Statement of Fact it says: that this is a safety issue. So this is why we had a hard time in correlating the two and this is why we are where we are.

There is at least one train in Maine here where the caboose has been negotiated off and this train is allowed to operate without a caboose. In addition to this, as of January 15, 1985, there were 1,710 trains operating in the United States without cabooses. I am sure if you think about it, if these trains were