

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fourteenth Legislature

OF THE

State Of Maine

VOLUME II

FIRST REGULAR SESSION

May 10, 1989 to June 14, 1989

Comes from the House, with the Report READ and ACCEPTED and the Resolve PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-245).

Which Report was READ and ACCEPTED, in concurrence.

The Resolve READ ONCE.

Committee Amendment "A" (H-245) READ and ADOPTED, in concurrence.

The Resolve as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LEGAL AFFAIRS on Bill "An Act to Remove the Limitations on Raffles Conducted by Nonprofit Entities"

H.P. 544 L.D. 741

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-233).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-233).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-233) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LEGAL AFFAIRS on Bill "An Act Regarding Political Party Enrollment"

H.P. 709 L.D. 970

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-246).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-246).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-246) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LEGAL AFFAIRS on Bill "An Act to Allow the Sale of Alcoholic Beverages in Bowling Centers"

H.P. 832 L.D. 1164

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-244).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-244).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-244) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Increase the Recording Fees for Services Rendered by the County Offices of Registry of Deeds"

H.P. 371 L.D. 502

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-248).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-248).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-248) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Off Record Remarks

Divided Report

The Majority of the Committee on BANKING AND INSURANCE on Bill "An Act to Require Mandatory Checking of Motorists' Maintenance of Financial Responsibility"

H.P. 284 L.D. 396

Reported that the same Ought to Pass.

Signed:

Senators:

THERIAULT of Aroostook

COLLINS of Aroostook

Representatives:

JOSEPH of Waterville

CURRAN of Westbrook

TRACY of Rome

KETOVER of Portland

ERWIN of Rumford

DONALD of Buxton

GARLAND of Bangor

RYDELL of Brunswick

RAND of Portland

ALLEN of Washington

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

Signed:

Senator:

BUSTIN of Kennebec

Comes from the House the Majority OUGHT TO PASS Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Reports were READ.

On motion by Senator THERIAULT of Aroostook, the Majority OUGHT TO PASS Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on HUMAN RESOURCES on Bill "An Act to Prohibit Smoking in Hospitals"

H.P. 728 L.D. 1005

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-232).

Signed:

Senator:

RANDALL of Washington

Representatives:

MANNING of Portland

ROLDE of York

BOUTILIER of Lewiston

BURKE of Vassalboro

DELLERT of Gardiner

HEPBURN of Skowhegan

PENDLETON of Scarborough

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

Signed:

Senators:

GAUVREAU of Androscoggin
TITCOMB of Cumberland

Representatives:

PEDERSON of Bangor
CLARK of Brunswick
CATHCART of Orono

Comes from the House 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-232).

Which Reports were READ.

Senator GAUVREAU of Androscoggin moved to ACCEPT the Minority OUGHT NOT TO PASS Report in NON-CONCURRENCE.

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

Senator RANDALL: Thank you Mr. President. Mr. President, men and women of the Senate. I rise this afternoon to support the Majority Report of the Human Resources Committee and urge that you would favor this legislation as Amended. You might prosper a bit to look at what this legislation does. The Bill, as Amended, does not prohibit smoking in hospitals, rather it prohibits smoking by staff, smoking by visitors, and restricts smoking by patients. Patients would be permitted to smoke in a designated area if an order is written by a physician permitting the patient to smoke. Eight hospitals in Maine now have such a policy. The Maine Hospital Association supports this legislation. In fact, at our public hearing on the Human Resources Committee, not a single person opposed the Bill. The Maine Legislature, in prior years, has acted aggressively to protect Maine citizens from known health hazards associated with secondhand smoke. Smoking is not permitted in retail stores, in jury rooms, on public transportation, or in any public area of a publicly owned building. Hospitals, it would seem, should be the first place to prohibit smoking, not the last. If we have chosen to protect the most vulnerable citizens in our society, in other locations, children with asthma, adults with emphysema, shouldn't we also protect these citizens in hospitals where they seek their medical care?

This Bill should not be viewed as about the right of smokers to have a cigarette in times of high stress, for they can always walk outside the hospital door and do this. This Bill is about the right to ensure a smoke free environment in Maine's primary health care facilities and local hospitals. I would urge that you reject the motion to Accept the Ought Not to Pass Report and would allow me to move the Majority Ought to Pass as Amended Report of the Committee. Thank you.

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

Senator GAUVREAU: Thank you Mr. President. Mr. President, men and women of the Senate. I rise in support of Acceptance of the Minority Ought Not to Pass Report for the following reasons. First, let me state that there is little, if anything, contained in the remarks of the good Senator from Washington, Senator Randall, with which I would disagree. I think there is general concurrence not only amongst the members of the Joint Standing Committee on Human Resources, but I strongly suspect amongst the members of the Maine Legislature, that we ought to, in fact, encourage a smoke free environment in our hospitals and health care institutions throughout the state.

However, it should be pointed out, in fact, it must be pointed out, that there is absolutely nothing in Maine law which would prohibit or in any way restrict the ability, or capacity, of Maine hospitals to restrict smoking in their environment at the

present time. Clearly, it is within the authority of all hospitals to prohibit smoking, should they so desire. I know that some hospitals in our state have, in fact, adopted non-smoking policies.

To me, it is truly ironic that today we are being asked by the Hospital Association, itself, to mandate that no smoking be permitted within the confines of our hospitals. I have spent the better part of the last four years hearing impassioned and I think logical presentations by members of the hospital community inveighing against efficacy of state regulations, i.e. state mandates. So, it is with some degree of irony that I listen to the presentation by the Hospital Association asking us to mandate that we don't allow smoking in hospital environments.

It seems to me that the present legislation is a bit unrealistic and probably unenforceable. The Majority Report would prohibit smoking in hospitals with the exception that patients of hospitals would be allowed to smoke tobacco products provided that those patients received written permission slips from their treating physician. During the course of the hearing, it struck me that there were several situations which might arise which would make this legislation impractical. For example, we have a close friend, or relative, of someone severely injured in a traumatic automobile accident. The person is transported by ambulance to the hospital. The relative, shall we say, is a chain smoker and, obviously, is highly agitated and very nervous. There is a long period of emergency surgery for the friend and the visitor has to wait for several hours. Assume further, if you will, that the accident takes place on January 15, and it is twenty-five degrees below zero in the middle of a storm. I just suggest to you that asking that visitor, that relative, to have to go outside the hospital to smoke a cigarette when they are in the throws of severe emotional distress, is just a tad unrealistic and I dare say unenforceable. I seriously doubt if any hospital would make a major effort to enforce the statute in that scenario.

More to the point, it seems to me that hospitals clearly have the ability now to make appropriate regulations to restrict the consumption or use of tobacco products within their environment. During the work sessions on this measure, members of the minority did discuss allowing hospitals the freedom to at least designate certain areas in the hospital where, be it, employees or visitors or whomever would be allowed to smoke tobacco products. This seems to me to be a much more practical approach.

In this situation, I truly and honestly believe this legislation is unnecessary. It seems to me, with all due respect to the people who support this legislation, that the legislation was really geared to a public relations campaign. If you will note, the effective date on this legislation is November 16, 1989. That is the date that the members of the Hospital Association would announce that we would have a smoke free environment in our hospitals. Clearly, if the situation were so grave and so serious that people were being victimized and being exposed to these tobacco products, I suggest that we ought not to wait until November 16, 1989, but wait until this afternoon and put an emergency enactor on the Bill. Clearly, hospitals can do now what is proposed in this legislation and for that reason I view this as unnecessary legislation and would urge you to Accept the Minority Ought Not to Pass Report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Collins.

Senator COLLINS: Thank you Mr. President. Mr. President, men and women of the Senate. It seems to me that failure to Enact this piece of legislation would be a giant step backward in our efforts to curtail smoking. The good Senator from Androscoggin, Senator Gauvreau, has indicated that he finds it unusual that the hospital industry seeks a legislative remedy when they so generally oppose regulation. It seems to me that in this instance they are the leaders of health care, if you will, in this country. It seems most unfortunate that they provide a facility where people go to get well that permits smoking on the premises. By statute, in retail establishments of five thousand feet or less we currently do not permit smoking. In restaurants we have rules regarding designated areas that you may and may not smoke in. We have, as I noted the other day, a Bill that provides for no smoking in covered malls. I find it a paradox that we would consider not enacting this legislation today. Thank you Mr. President.

Senator COLLINS of Aroostook requested a Division.

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

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. I would urge you also to vote against the pending motion and to vote with the majority members of the Human Resources Committee on this Bill. Ladies and gentlemen, I probably couldn't put it any better than the Senator from Aroostook, Senator Collins. In many cases, we have seen the public come forward to the Legislature and ask for assistance to help further the progressive efforts toward a smoke free society. We know the ill effects of smoking. Those in the health care field certainly know of those ill effects and this Legislature knows of the costs involved with smoking in our society. This particular measure is supported by the Maine Lung Association and it is supported by citizens across the state. It is a good Bill and it makes no sense to kill this Bill. I would ask you to vote for those that want to have a healthy environment to work in and especially those in our health care professions. Let's assist the hospitals in doing what we, as a Legislature, know is right and just. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator GAUVREAU of Androscoggin, to ACCEPT the Minority OUGHT NOT TO PASS Report in NON-CONCURRENCE.

A Division has been requested.

Will all those Senators in favor of the motion of Senator GAUVREAU of Androscoggin, to ACCEPT the Minority OUGHT NOT TO PASS Report, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

14 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator GAUVREAU of Androscoggin, to ACCEPT the Minority OUGHT NOT TO PASS Report in NON-CONCURRENCE, FAILED.

On motion by Senator COLLINS of Aroostook, the Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-232) READ.

Senator CLARK of Cumberland moved the INDEFINITE POSTPONEMENT of the Bill and Accompanying Papers.

Senator PEARSON of Penobscot requested a Division.

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

Senator BRANNIGAN: Thank you Mr. President. I would like to pose a question through the Chair. Is

it true that this Bill would prohibit smoking in a mental health institute in this state?

THE PRESIDENT: The Senator from Cumberland, Senator Brannigan, has posed a question through the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you Mr. President. Mr. President, men and women of the Senate. With respect to the question posed by the good Senator from Cumberland, Senator Brannigan, it is my understanding that this legislation would effect all of Maine's hospitals, including the Augusta Mental Health Institute and Bangor Mental Health Institute. Therefore, unless the resident were to have secured the written authorization from his or her treating physician, smoking would not be allowed.

On motion by Senator CLARK of Cumberland, ADJOURNED until Thursday, May 25, 1989, at 9:00 in the morning.