

# 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

Emergency

An Act Concerning the Location of Lobster Trap Vents

H.P. 1039 L.D. 1450

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in negative, and 28 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 his approval.

The Chair laid before the Senate the Tabled and Specially Assigned matter (5/31/89):

Bill "An Act to Improve Regulatory Oversight of Health Maintenance Organizations"

H.P. 205 L.D. 285

(C "A" H-259)

Tabled - May 26, 1989, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, May 26, 1989, READ A SECOND TIME.)

(In House, May 24, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"(H-259).)

On motion by Senator CLARK of Cumberland, Tabled Unassigned, pending PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter (5/31/89):

Bill "An Act to Restrict Smoking in Enclosed Shopping Malls"

H.P. 751 L.D. 1055

(C "A" H-190)

Tabled - May 30, 1989, by Senator CLARK of Cumberland.

Pending - ADOPTION OF COMMITTEE AMENDMENT "A" (H-190) AS AMENDED BY SENATE AMENDMENT "B" (S-167), thereto, in NON-CONCURRENCE

(In House, May 17, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-190).)

(In Senate, May 19, 1989, READ A SECOND TIME.)

(In Senate, May 22, 1989, Bill and Accompanying Papers RECOMMITTED to the Committee on HUMAN RESOURCES in NON-CONCURRENCE.)

(In House, May 24, 1989, that Body INSISTED.)

(In Senate, May 26, 1989, the Senate RECEDED. Senate Amendment "B" (S-167) to Committee Amendment "A" (H-190) READ and ADOPTED.)

On motion by Senator CLARK of Cumberland, Senate Amendment "C" (S-177) to Committee Amendment "A" (H-190) READ.

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 speak to you once again on a matter pertaining to the area of smoking in public areas. The legislation before you would, if Adopted, prohibit, within certain restrictions, smoking in enclosed areas in shopping malls in our state. A few days ago, I offered an Amendment which was accepted by this Body which would have Amended this Bill to comply with the provisions of our no smoking in restaurants law. So, if this Body were to Accept the measure as now drafted, without the amendment being offered by the good Senator from Cumberland, Senator Clark, the follow situation would obtain: Smoking would be prohibited in shopping malls in our state, with the exception that in shopping malls which have open areas referred

to as food courts, where patrons can sit and consume food products purchased at the mall, then the provisions of our restaurant smoking law would apply. That, in fact, would require that in the open areas, the food court, there would be a certain designated area in which people could smoke, as long as that area was reasonably calculated to address the needs of the non-smoking public.

I have had the opportunity to confer with the good Senator from Cumberland, Senator Clark, in reference to proposed Senate Amendment "C" and respect that courtesy. It is my understanding, although I don't intend to speak for the good Senator, that the intent of Senate Amendment "C", being offered now, would further Amend this law to allow shopping malls to designate general areas for those who wish to smoke. I have had an opportunity to confer with my colleagues on the Joint Standing Committee on Human Resources in regards to the proposed amendment. I can report to this Body that the majority, I believe twelve members of the Committee, are supporting the original Bill. Those same twelve members are in opposition to the amendment being offered today. Their feeling being that it is very important that we provide a smoke free environment in our shopping malls. They were only willing to allow for smoking to go on in these open areas, the food court, of our shopping malls. The feeling being, however, that malls being enclosed, people can make the choice as to whether they wish to go to the mall or consume tobacco products elsewhere. It was felt, by the Committee, that to respect the rights of the non-smoking public, and I would point out to this Body that roughly seventy-five percent of adults in Maine do not smoke and I would venture to say that a much higher population of children do not smoke, but in order to respect the rights of the non-smoking majority, the Committee recommends that no further exceptions allowing smoking to go on in enclosed areas of shopping malls.

For those reasons, I respectfully urge this Body to vote in opposition to Senate Amendment "C", so that we can go on to Pass for Engrossment this legislation. Thank you.

Off Record Remarks

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

Senator CLARK: Thank you Mr. President. Mr. President, men and women of the Senate. The Senator from Androscoggin, Senator Gauvreau, has aptly and concisely synthesized the contents of Senate Amendment "C", which is currently pending before us. It is an incorporation of Senate Amendment "B" plus one, which does provide for designated smoking areas in enclosed shopping malls across our state.

It is my understanding that enclosed shopping malls are privately owned and that in enclosed shopping malls located in our major cities, namely South Portland, Lewiston-Auburn, and Bangor, that numbers of Maine citizens flock to these shopping malls, particularly in times of cold or inclement weather. While I am not a strong advocate for smoking and it does seem a little incongruous that I would be standing here proposing this amendment, I do submit that we would be seriously inconveniencing the numbers of Maine people who coincidentally smoke. Some of them may be younger citizens. I submit that most of them are older citizens and that for many of them, particularly in the cold months of the year,

this is where they do their recreational walking where many senior citizens and older citizens tours are focused, and that many spouses wait, conversing with their peers, while their other spouse is shopping. A number of those people happen to smoke. Are we in fact going to say that you have to go outdoors in these large enclosed shopping malls? I am concerned about that comfort level. I fully recognize the effect of side stream smoke and or other smoke emitted from a wide assortment of smoking products, but I am also concerned about the state mandating to these private establishments, where general public does congregate for other than specific reasons and sometimes those visits to the enclosed shopping malls take numbers of hours.

I just think that we should be concerned about that segment of our population in enclosed shopping malls. We aren't talking about health care facilities, we are talking about enclosed shopping malls and to allow the owners, the proprietors, of those malls to be able to designate an area in that complex where people can congregate and, at the same time, enjoy the consumption of whatever variety of tobacco product they wish. It is in that light and with great respect to the arduous work that evolved in this L.D. 1055, as Amended, that I present this Amendment for your consideration. Thank you.

Senate at Ease  
Senate called to order by the President.

Senator MATTHEWS of Kennebec requested a Division. THE PRESIDENT: The pending question before the Senate is the motion of Senator CLARK of Cumberland to ADOPT Senate Amendment "C" (S-177) to Committee Amendment "A" (H-190).

A Division has been requested.

Will all those Senators in favor of the motion of Senator CLARK of Cumberland, to ADOPT Senate Amendment "A" (S-177) to Committee Amendment "A" (H-190), please rise in their places and remain standing until counted.

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

15 Senators having voted in the affirmative and 10 Senators having voted in the negative, the motion by Senator CLARK of Cumberland, to ADOPT Senate Amendment "C" (S-177) to Committee Amendment "A" (H-190), PREVAILED.

Committee Amendment "A" (H-190) as Amended by Senate Amendments "B" (S-167) and Senate Amendment "C" (S-177) thereto, ADOPTED in NON-CONCURRENCE.

Which was PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act Concerning Withdrawal of Candidates"  
H.P. 559 L.D. 757  
(H "A" H-282 to C "A"  
H-234)

Tabled - May 31, 1989, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, May 31, 1989 READ A SECOND TIME.)

(In House, May 26, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-234) AS AMENDED BY HOUSE AMENDMENT "A" (H-282), thereto.)

Senator CLARK of Cumberland moved that the RULES BE SUSPENDED.

Senator CAHILL of Sagadahoc requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion of Senator CLARK of Cumberland to SUSPEND THE RULES.

A Division has been requested.

Will all those Senators in favor of the motion of Senator CLARK of Cumberland, to SUSPEND THE RULES, please rise in their places and remain standing until counted.

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

12 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion of Senator CLARK of Cumberland, to SUSPEND THE RULES, FAILED.

THE PRESIDENT: The pending question before the Senate is PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

The Chair will order a Division.

Will all those Senators in favor of PASSAGE TO BE ENGROSSED AS AMENDED, please rise in their places and remain standing until counted.

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

13 Senators having voted in the affirmative and 14 Senators having voted in the negative, the Bill FAILED of PASSAGE TO BE ENGROSSED AS AMENDED in NON-CONCURRENCE.

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

RESOLUTION, Proposing an Amendment to the  
Constitution of Maine to Provide for 4-Year Terms for  
Senators and Representatives

H.P. 808 L.D. 1120  
(H "A" H-279)

Tabled - May 31, 1989, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, May 31, 1989, READ A SECOND TIME.)

(In House, May 26, 1989, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-279).)

On motion by Senator CLARK of Cumberland, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED whereby it ADOPTED House Amendment "A" (H-279).

On further motion by same Senator, Senate Amendment "A" (S-191) to House Amendment "A" (H-279) READ and ADOPTED.

House Amendment "A" (H-279) as Amended by Senate Amendment "A" (S-191) thereto, ADOPTED in NON-CONCURRENCE.

Which was PASSED TO BE ENGROSSED AS AMENDED in NON-CONCURRENCE.

Sent down for concurrence.

On motion by Senator BALDACCI of Penobscot, ADJOURNED until Friday, June 2, 1989, at 12:00 in the afternoon.