

# 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

**PASSED TO BE ENACTED**

An Act to Increase the Penalties for Repeat Violations of the Prostitution Laws (H.P. 757) (L.D. 1061) (S. "A" S-259 to C. "A" H-338)

An Act to Amend the Natural Resources Protection Act (H.P. 813) (L.D. 1125) (C. "A" H-399)

An Act to Prohibit the Sale of Unlawful Drugs in or near Schools (H.P. 816) (L.D. 1144) (S. "A" S-257 to C. "A" H-342)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act Requiring School Boards to Adopt Written Policies Regarding Student Rights and Responsibilities (H.P. 827) (L.D. 1159) (H. "A" H-471 to C. "A" H-443)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Ladies and Gentlemen of the House: This enactor comes to you today as a Majority Report from the Education Committee and I was one of the signers of the Minority Report (minority of 3). On behalf of that minority and the sponsors of the legislation, I just wanted to indicate the essence of the feelings of the minority signers.

We recognized that those rights guaranteed to students by the United States Constitution and the Constitution of Maine -- these would include the rights guaranteed by Tinker v. Des Moines Independent School District which recognizes that students do not shed their constitutional rights at the schoolhouse gate, while also recognizing that schools need to maintain order to achieve those educational purposes.

I hope you would support the enactment of this legislation.

Subsequently was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Increase Funding of Legal Services for the Elderly (H.P. 888) (L.D. 1232) (C. "A" H-411)

An Act Relating to the Status of Nursing Professions in Maine (H.P. 956) (L.D. 1324) (H. "A" H-475 to C. "A" H-453)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Strengthen Maine's Restaurant Smoking Law (H.P. 966) (L.D. 1344) (C. "A" H-409)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

Representative Hepburn of Skowhegan moved that L.D. 1344 and all accompanying papers be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: This piece of legislation is a 12 to 1 Committee Report that I think has addressed a lot of concerns people have about smoking in restaurants. It is allowing the Department of Human Services the ability to come up with a reasonable

calculation. I would hope that you would go along with the 12 to 1 Committee Report.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: To be perfectly honest with you, I don't consider this piece of legislation to be world ending. I do consider it to be meddlesome, picayune, intrusive and kind of a nuisance.

It is significantly better than it was when it started off but it is still not that great. In fact, I think its demerits are greater than its merits and that is why I am standing before you today. It requires the Department of Human Services, by rule, to determine what a reasonably calculated smoking area is. We batted it around in committee a little bit and we couldn't seem to come up with a definition but maybe the Department of Human Services will have better luck in rulemaking.

I don't know what reasonable is. We had a number of restaurateurs come in and said that restaurants in different parts of the state have different amounts of people come in and smoke, that percentages change from hour to hour, from day to day, from one part of town to the other. They couldn't come up with a number. Now we are asking the department to do that.

The bill also says that the policy must be posted outside the restaurant or as the people come into the restaurant or must be verbally communicated to the patrons as they enter. I don't know why we are doing this, why we have to have these charts with tables that says tables 1 through 12 are non-smoking and 12 through 20 are smoking, but evidently we figured that we knew better than everyone else did and that we would mandate this.

The department says there is 90 percent compliance with the current law. We have never fined anybody for this. I think a lot of us realize that occasionally that the smoking laws are violated. Perhaps we ought to look at enforcement a little bit and maybe we ought to fine one or two people and the word would get out that we are serious about the current smoking law. That doesn't seem to be the way we have decided to go with this bill, unfortunately, and we have increased the maximum fine by 500 percent up to \$500.

It is just for these reasons, folks, that I oppose this bill and I hope you will go along with me.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Hepburn of Skowhegan that L.D. 1344 and all accompanying papers be indefinitely postponed. Those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

35 having voted in the affirmative and 76 in the negative, the motion did not prevail.

Subsequently, the Bill was passed to be enacted, signed by the Speaker, and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Increase the Authority of the Department of Human Services to Assess the Medical and Active Treatment Needs of Individuals Applying for Admission to Nursing Homes (H.P. 1012) (L.D. 1410) (H. "A" H-474 to C. "A" H-461)

An Act to Simplify the Process by Which People with Disabilities Are Able to Acquire Information and Apply for Services (H.P. 1032) (L.D. 1438) (H. "A" H-473 to C. "A" H-391)

An Act to Limit Municipalities' Responsibility to Reopen an Abandoned Road (H.P. 1138) (L.D. 1581)