

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Fourteenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME IV**

**FIRST SPECIAL SESSION**  
August 21, 1989 to August 22, 1989  
Index

**FIRST CONFIRMATION SESSION**  
October 30, 1989  
Index

**SECOND CONFIRMATION SESSION**  
December 12, 1989  
Index

**SECOND REGULAR SESSION**  
January 3, 1990 to March 19, 1990

farm animal, or a pulling animal, or a racing animal, that these complaints be referred to the Department of Agriculture.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Webster.

Senator WEBSTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to say that I don't see this as being a partisan issue, I didn't even know it was going to be on the Calendar today, or at least I did not know that the Senate was going to reconsider it. My concern is I guess that, it shouldn't be a partisan issue, I don't think it is, the only reason I am addressing it is because I have had so much interest from the public in my district. The only reason I have mentioned partisan is because Senator Cahill and I happen to agree, and seems that some of the other members of my caucus agree with the Senator from Penobscot, Senator Emerson. But my concern is that we ought to be very serious when we change laws, no matter what the law is, whether it is an issue like this, which probably isn't earth shattering, or whether it is an issue dealing with children, or whatever the issue might be, we ought to cautiously change our laws in this state. I am only speaking for the dozen people that have contacted me, and asked me to oppose this measure for a number of reasons, and I have yet to be convinced that this ought to be changed. I appreciate the explanations given by the Senator from Cumberland, Senator Clark and others, but no one yet has shown me why we ought to be changing this law, and that is why I am opposed to it, and I hope that you would oppose it, too.

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

Senator DILLENBACK: Thank you Mr. President. Ladies and Gentlemen of the Senate. I am probably one of the few farmers that has been involved in animals, and consequently, I don't know why the farmers would object to this Bill. The fact that that Amendment is coming forth, to me, answers all the questions. Because you have other groups that are concerned, the horse pulling, the racing, some people are very concerned about those items. But when you get to the care of animals, probably the farmers do a good job, in fact, they do an excellent job, because it is their income, they have to take care of the animals, so I don't even see why the farmers are even concerned about this.

There is a problem, however, because when you have this under the Department of Agriculture, it is sort of a step-child. And a matter of fact, they asked another person to do the investigations this year, and they even had the money for it, but then the Governor passed down a law, or somebody did, a ruling, that they wanted to prioritize where their money went. And of course the Department of Agriculture prioritized the money, and they didn't get the money that they needed.

I think that when you set this up under a different Head, an independent organization such as this, although, the Agriculture Committee, the people are represented on it, you are going to more attention on to the problems, and we do have problems. It is just the natural things that animals are mistreated, and I think we should take care of them, and this is probably the best way to do it.

A number of years ago, we had on one of my Committees, we had a Bill in for another animal welfare group, in the town of Windham. We passed through this legislature, a Bill to allow them to buy part of the land that was in the Windham Reformatory, so they could establish a farm from there and take care of mistreated animals, and they have done a

wonderful job, and I love my animals, and I hope that you love yours, and let's take care of them. Thank you.

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

Senator CLARK: Thank you Mr. President. Ladies and Gentlemen of the Senate. Now I know why I like farmers, especially from Cumberland County, with the name of Senator Dillenback.

I couldn't agree more enthusiastically or sincerely with the remarks from the good Senator from Cumberland, Senator Dillenback, and simply wish to reaffirm my support for this measure, obviously, as the prime sponsor of the Bill, I support it. But it is my understanding that the Commissioner of the Department of Agriculture, as well as the members of the Animal Welfare Board, support what the Committee has reported out as a compromise piece of legislation, and hasten to remind you that not only does the Amended version of the Bill insure the independence of the Animal Welfare Board, but it gives to the Department of Agriculture additional powers to investigate those complaints related directly to farm animals, more than they had before this Bill was presented. Thank you.

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

A vote of Yes will be in favor of PASSAGE TO BE ENGROSSED AS AMENDED.

A vote of No will be opposed.

Is the Senate ready for the question?

Senator WEBSTER of Franklin who would have voted NAY requested and received Leave of the Senate to pair his vote with Senator BALDACCI of Penobscot who would have voted YEA.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BERUBE, BOST, BRANNIGAN, BUSTIN, CARPENTER, CLARK, DILLENBACK, DUTREMBLE, ERWIN, ESTES, ESTY, GAUVREAU, GILL, HOBBS, KANY, MATTHEWS, PEARSON, PERKINS, RANDALL, THERIAULT, TITCOMB, TWITCHELL, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BRAWN, CAHILL, COLLINS, EMERSON, GOULD, HOLLOWAY, LUDWIG, WEYMOUTH

PAIRED: Senators BALDACCI, WEBSTER

ABSENT: Senators None

25 Senators having voted in the affirmative and 8 Senators having voted in the negative, with 2 Senators having paired their votes and No Senators being absent, the Bill was PASSED TO BE ENGROSSED AS AMENDED in NON-CONCURRENCE.

Sent down for concurrence.

Off Record Remarks

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Protect Public Health by Prohibiting Smoking on public Transportation Busses" (Emergency)

H.P. 1462 L.D. 2039

(C"A" H-817)

Tabled - March 8, 1990, by Senator CLARK of Cumberland.

Pending - Motion of Senator CARPENTER of York to ADOPT SENATE AMENDMENT "A" (S-555)

(In Senate, March 6, 1990, READ A SECOND TIME. Senate Amendment "A" (S-555) READ.)

(In House, March 2, 1990, PASSED TO ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-817).)

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Brawn.

Senator BRAWN: Thank you Mr. President. Ladies and Gentlemen of the Senate. As a member of the Governor's Committee on Smoking, and the Commission on Smoking or Health, I rise to clarify for the record, comments concerning this L.D. 2039, "An Act to Protect Public Health by Prohibiting Smoking on Public Transportation Buses" (Emergency).

When we debated this Bill on Tuesday, I heard several comments that said they are going too far. I wish to express to you that these Committee's that I am on did not sponsor any legislation this year. We have done very well in Maine passing smoking legislation in the past. We decided not to submit smoking legislation during this second year of the 114th Legislature, to wait for the Governor's Commission and recommendations, and you have received that report.

I hesitate to say this Bill was submitted by a member of the other Body, so I won't. I think it is a good Bill, and I will support this Bill without the "smoker's special" Amendment. This Bill should, however, exempt chartered buses.

One final point I would like to make, is that this is not a smokers right Bill we are talking about, we are talking about public health. I remember my first year here debating that subject of public health, and I remember we won by a very narrow margin, the Smoking in Public Places Bill. I wish to state unequivocally for the record, I do not wish to infringe on smokers ability to smoke. I have been very careful not to offend smokers, and I am sure that if you smoke the good Senator from York, Senator Carpenter, he will particularly agree with that. But I do wish to have a choice of the air that I breath. If someone else chooses to smoke, that is their business, but I also believe that I should have the choice not to breath that smoke. I thank you for this opportunity.

THE PRESIDENT: The Chair is tempted to advise the Senator from Knox, Senator Brawn, that she was close to being out of order, but I won't. The Chair recognizes the Senator from York, Senator Carpenter.

Senator CARPENTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. We are discussing right now the Amendment, which has absolutely nothing to do with smokers infringement on non-smokers rights. The Amendment is the right for a company, we will use the word in this case, a bus company. I am just against infringing on their rights to supply, which might or might not be a demand in the transportation system. The Amendment is only to design to allow a bus company, if they desire, to run a special bus for smokers. I have not heard of any bus company applauding this, and that wants it, but there might be someday. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Webster.

Senator WEBSTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to commend the good Senator from York, Senator Carpenter, on his innovative Amendment. It seems to me that he had an interesting approach to this important issue, and I would suggest that we ought to support this Amendment. In the Amendment if you read it, it says, and I think the clear point that we have to notice is that it says, in addition. It isn't like Senator Carpenter and the Senate are telling these bus companies they can't allow smokers to

mingle with non-smokers, but I think the approach to allow a company to offer this exclusive trip for smokers is a good idea, and I commend him for offering this Amendment, and I hope you support it. Thank you.

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

Senator MATTHEWS: Thank you Mr. President. Ladies and Gentlemen of the Senate. I was just trying to think how that this could happen, and we could have a smoking bus and a non-smoking bus, and I guess now that we will see kind of insignia, I guess, on the smoking bus, maybe a cigarette, an ashtray, or better yet, as it comes down the highway, we can see the smoke coming out of the windows. I am trying to envision that. Thank you.

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

Senator GAUVREAU: Thank you Mr. President. Ladies and Gentlemen of the Senate. It is with some trepidation that I arrive at this late hour of the morning, to debate this monumental issue.

I did have occasion to bring to the attention to the members of the Committee on Human Resources, the Amendment being sponsored by the good Senator from York, Senator Carpenter. And I must report to you that it was with a sense of amusement that the Amendment was discussed in my Committee. It is probably a fair statement that they do not feel the Amendment, if Adopted, would have any practical affect. It is in our view somewhat unlikely that a bus company could in fact afford to purchase a fleet of buses, which would be sustained by an ever dwindling number of smokers in our society. Therefore, I can't tell you that I would vehemently oppose the Amendment, but, I have been asked on behalf of the members of my Committee, to oppose the Amendment. We feel that it doesn't add materially to the Bill, in fact, doesn't make much of an impact at all. We do not think it is meaningfully related to the purpose of this legislation, and therefore, I would ask that you vote against the offered Amendment. Thank you.

At the request of Senator GAUVREAU of Androscoggin a Division was had. 13 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion of Senator CARPENTER of York, to ADOPT SENATE AMENDMENT "A" (S-555), FAILED.

On motion by Senator COLLINS of Aroostook, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "A" (H-817).

On further motion by same Senator, Senate Amendment "A" (S-566) to Committee Amendment "A" (H-817) READ.

THE PRESIDENT: The Chair recognizes that Senator.

Senator COLLINS: Thank you Mr. President. Ladies and Gentlemen of the Senate. We are now in a position where we are back to the original Bill, and it would permit smoking on chartered buses. Thank you.

On motion by Senator COLLINS of Aroostook, Senate Amendment "A" (S-566) to Committee Amendment "A" (H-817) ADOPTED.

Committee Amendment "A" (H-817), as Amended by Senate Amendment "A" (S-566) thereto, ADOPTED in NON-CONCURRENCE.

Sent down for concurrence.

Senate at Ease  
Senate called to order by the President.