

# MAINE STATE LEGISLATURE

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

**VOLUME I**

**FIRST REGULAR SESSION**

House of Representatives  
December 5, 1990 to May 16, 1991

1992-1993 \$35,000 annually for Literacy Volunteers of Maine through the Department of Education and it is a General Fund appropriation.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 5 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**PASSED TO BE ENACTED**

**Emergency Measure**

An Act Dealing with the Public Utilities Commission's Involvement in Contract Settlements (H.P. 132) (L.D. 192) (C. "A" H-57)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**PASSED TO BE ENACTED**

An Act to Amend the Real Estate Brokerage Laws (S.P. 64) (L.D. 116) (C. "A" S-27; H. "A" H-64)

Was 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.

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**ENACTOR**

**Tabled and Assigned**

An Act to Expand the Applicability of Certain Energy Standards (S.P. 149) (L.D. 361) (C. "A" S-34)

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

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I wish to pose a question through the Chair to a member of the Energy Committee.

This bill has a fiscal note which reads, "Additional General Fund appropriations will be required to enforce mandatory standards." However, the additional funding directly related to this bill's expansion of the enforcement requirements cannot be determined at this time.

I would like to ask a member of the Energy Committee, since the General Fund is extremely tight for the next two years what the impact will be? It seems to me if we can't determine the increase cost, it doesn't seem particularly responsible to pass the bill. I am also worried that enforcement costs for these mandatory standards may be placed back on local budgets through code enforcement.

The SPEAKER: Representative Foss of Yarmouth has H-525 posed a question through the Chair to any member of

the Energy and Natural Resources Committee who may respond if they so desire.

Representative Foss of Yarmouth requested a roll call vote.

On motion of Representative Jacques of Waterville tabled pending passage to be enacted (roll call having been requested) and specially assigned for Thursday, April 18, 1991.

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**PASSED TO BE ENACTED**

An Act Providing a Procedure for the Termination of the Degree-granting Authority of Educational Institutions (S.P. 273) (L.D. 732) (H. "A" H-73)

An Act to Modify the Law Relating to Continuing Deliberation by a Civil Jury in the Face of Disagreement (S.P. 313) (L.D. 851) (C. "A" S-36)

An Act to Amend the Laws Pertaining to Car Dealerships (H.P. 247) (L.D. 338) (C. "A" H-52)

An Act to Provide Administrative Oversight of Organic Food Certification in Maine (H.P. 422) (L.D. 605) (H. "A" H-63)

An Act Regarding Amber Lights on Snowplows and Sanding Equipment (H.P. 424) (L.D. 607) (C. "A" H-59)

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.

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**FINALLY PASSED**

Resolve, to Name the Bridge Crossing the Sebasticook River in Benton the Benton Veterans' Memorial Bridge (H.P. 385) (L.D. 559) (C. "A" H-58)

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

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**ORDERS OF THE DAY**

**UNFINISHED BUSINESS**

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, has preference in the Orders of the Day and continues with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first item of Unfinished Business:

Bill "An Act to Protect Children from Illegal Tobacco Sales" (S.P. 506) (L.D. 1344) (Committee on Legal Affairs suggested)

- In Senate, Referred to Committee on Business Legislation.

TABLED - April 16, 1991 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Reference in concurrence.

Representative Sheltra of Biddeford moved that the Bill be referred to the Committee on Business Legislation in concurrence.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, I ask for a roll call.

Mr. Speaker, Ladies and Gentlemen of the House: I really don't like speaking to this body on a reference fight but this is a serious bill. It makes a dramatic change in the policy of this state. It would require that people selling tobacco be licensed and that license be issued by the Liquor Commission and that the Bureau of Alcoholic Beverages be expanded to enforce the licensing procedure.

One section of this bill deals with vending machines that would outlaw the sale of cigarettes in vending machines. The Legal Affairs Committee deals with all matters dealing with the Liquor Commission. The Legal Affairs Committee deals with the drug policy of this state, it deals with the Liquor Commission, it deals with the Bureau of Alcoholic Beverages. If this bill was referred to the Committee on Business Legislation, it would in effect split the Bureau of Alcoholic Beverages between the Committee on Business Legislation and the Committee on Legal Affairs. I would request your support in defeating this motion to refer it to the Committee on Business Legislation so that we can refer it to the Committee on Legal Affairs.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Sheltra.

Representative SHELTRA: Mr. Speaker, Ladies and Gentlemen of the House: This bill came before this last session, the 114th, and the Committee on Reference of Bills at that point in time did refer it to Business Legislation. It is the identical title that it had in the prior session, with the very same Statement of Fact. The question being, as far as the Bureau of Alcoholic Beverage is concerned, this is a matter whereby we will have enforcement. We are actually dealing with children. This bill is a child health protection measure. All of you have heard the important statistics about kids and cigarettes. Twenty-three percent of Maine high school students are addicted to tobacco by the time they graduate. 90 percent of all smokers became addicted before the age of 18, the legal age of purchase in Maine. These statistics are clear proof that our current law which plainly prohibits tobacco sales to children under the age of 18 is just not being enforced. That is why this bill is before you, to create a mechanism for enforcing the law this legislature passed several years ago to protect the health of the children.

Actually what we did last session, we came through as far as vending machines were concerned that they had to be conspicuous in the establishments whereby they might be housed and this bill deals with doing away with the vending machines entirely.

If we were to take in hand every bill that comes in here before us, if we were to dissect it and try to figure out as to what committee it should go before, we would be writing paper here until next Christmas. Where we have handled this bill before, we have done a good job, we would like to have it referred to our committee once again so that we can set everything straight.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, Ladies and Gentlemen of the House: This bill was referred to the Committee on Business Legislation two years ago. It was sponsored by the Chair of the Committee on Business Legislation. Why it got referred to the Business Legislation Committee, I do not know. I was not Chair of Legal Affairs at that time but no legislature is bound to repeat its mistakes every two years. 97 percent of this bill that is 20 pages long, only one paragraph deals with vending machines, the entire rest of the bill deals with the Liquor Commission and the Bureau of Alcoholic Beverages.

The Representative from Biddeford spoke highly about what we should do about tobacco sales but I will remind you that the Business Legislation Committee killed this bill last year. The tobacco industry is lobbying heavily to have this bill go to the Business Legislation Committee again this year. This bill rightfully belongs in the Committee on Legal Affairs where we can look at the drug policy of this state and where we can look at the effects of this bill on the Liquor Commission and the Bureau of Alcoholic Beverages.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, Men and Women of the House: Before we get too carried away, let's relax a little bit, take a breath on this one, the world won't come crashing down, regardless of which committee gets this bill. Although my committee, Business Legislation, killed this bill last time, I don't think that is going to happen again this time. Last time we asked that vending machines be placed in the direct supervision of persons where those vending machines were. That is not being carried out and it is highly likely that we will be looking at banning vending machines altogether.

Also, the aspect of licensure of tobacco sales has always been the purview of the Committee on Business Legislation. As a matter of fact, we do it for 42 professions, including M.D.'s, Osteopaths, chiropractors, electricians, plumbers, beauticians, maybe aestheticians before we are through this year. Quite frankly, I think that if we can deal with those issues of health and safety of the consumer, I think we can deal with this one as well.

However, we must recognize that committees sometimes have overlapping jurisdiction. Usually where there is overlapping jurisdiction, we tend to go along with the committee on reference and go with their recommendation because where there is overlapping jurisdiction, we recognize that committees all have a certain amount of expertise and that none of them will cause great harm if we allow them to work on a bill.

Although this has been referred to the Committee on Legal Affairs, it has always been a bill that came to Business Legislation, it should continue to do so because of one important factor, we have dealt with the bill, we have dealt with the parties involved, we have the legislative memory on this one, we tried last year to deal with this in a rational manner, we took the word of people on this bill and they were not carried out. We are in no mood this year to kill this bill, I can guarantee you. The bill needs modification to make it acceptable and I think the modifications that would be made would be the same modifications whether it is the Legal Affairs

Committee or Business Legislation because I think we see eye to eye.

I would much prefer, if you would, please, refer this bill to the Committee on Business Legislation, but if you choose to send it to the Committee on Legal Affairs, it is not going to be a big deal.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: The previous speaker alluded to the fact that his advice to you is, when in doubt, let's go with the recommendation of the Committee on Reference of Bills. I might point out to you that in the printing of this item, the Committee on Reference suggested the Committee on Legal Affairs.

I also reiterate the fact that an error that might have been created in the past does not necessarily have to be recreated presently or in the future. Those are the two points that I wish to bring. The comment, when in doubt, let's go with the Committee on Reference's suggestion, and the second is, if, in fact, we might have made an error two years ago, why do we have to repeat it?

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: The way the Representative from Biddeford described it, it really should be going to Human Resources. We are the ones who protect the children of this state. I don't think it is the business community who is really protecting it but I have got to go along with my colleague from Kittery and say that that is the area that I think it should be going to. Although when it first came out people said, shouldn't we be dealing with it? I said, no, I think when you look at this bill, it really deals with liquor enforcement and I think that is the area that that bill should go to.

I would hope you would follow Representative Lawrence's light and put this in the Committee on Legal Affairs.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Sheltra.

Representative SHELTRA: Mr. Speaker, Members of the House: Representative Manning just proved my point, if we were to oversee all of these bills, you would find that the majority of them would be dissected, would be split up, and referred to different committees. My point again is the fact that we did tend to it, did review it last session, we are certainly capable enough at this time to do it again and do the job correctly. I hope that you sustain my vote.

The SPEAKER: 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 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: The pending question before the House is the motion of the Representative from Biddeford, Representative Sheltra, that L.D. 1344 be referred to the Committee on Business Legislation. Those in favor will vote yes; those opposed will vote no.

YEA - Aikman, Bailey, H.; Bennett, Carroll, D.; Coles, Constantine, Donnelly, Dutremble, L.; Garland, Graham, Gurney, Gwadosky, Hoglund, Jacques, Jalbert, Kerr, Kutasi, Lebowitz, Libby, Lord, Luther, Marsano, Martin, H.; Mayo, McHenry, Melendy, Merrill, Nutting, Paul, Reed, G.; Reed, W.; Ricker, Rotondi, Rydell, Sheltra, Skoglund, Vigue, Whitcomb.

NAY - Adams, Anderson, Anthony, Ault, Bailey, R.; Barth, Bell, Boutilier, Bowers, Butland, Cahill, M.; Carleton, Carroll, J.; Cathcart, Chonko, Clark, H.; Cote, Crowley, Daggett, DiPietro, Duplessis, Erwin, Farnsworth, Farnum, Farren, Foss, Gean, Goodridge, Gould, R. A.; Gray, Greenlaw, Hale, Handy, Hanley, Hastings, Heeschen, Heino, Hepburn, Hichborn, Hichens, Holt, Hussey, Joseph, Ketover, Ketterer, Kontos, LaPointe, Lawrence, Lemke, Lipman, Look, MacBride, Macomber, Mahany, Manning, Marsh, McKeen, Michaud, Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, O'Dea, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Parent, Pendexter, Pendleton, Pfeiffer, Pineau, Pines, Plourde, Poulin, Powers, Rand, Richards, Richardson, Ruhlin, Saint Onge, Salisbury, Savage, Simonds, Simpson, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tamaro, Townsend, Tracy, Treat, Tupper, Waterman, Wentworth.

ABSENT - Aliberti, Cashman, Clark, M.; Dore, Duffy, Kilkelly, Larrivee, Mitchell, E.; Pouliot, Tardy, The Speaker.

Yes, 38; No, 102; Absent, 11; Paired, 0; Excused, 0.

38 having voted in the affirmative and 102 in the negative with 11 being absent, the motion did not prevail.

Subsequently, on motion of Representative Lawrence of Kittery, the Bill was referred to the Committee on Legal Affairs in non-concurrence and sent up for concurrence.

**TABLED AND TODAY ASSIGNED**

The Chair laid before the House the first tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (H-89) - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for 4-year Terms for Senators and Members of the House of Representatives (H.P. 256) (L.D. 347)

TABLED - April 16, 1991 by Representative JOSEPH of Waterville.

PENDING - Motion of same Representative to Accept the Minority "Ought to Pass" as Amended Report.

On motion of Representative Joseph of Waterville, retabled pending the motion of the same Representative that the House accept the Minority "Ought to Pass" as amended Report and specially assigned for Thursday, April 18, 1991.

**Off Record Remarks**