

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME IV

FIRST REGULAR SESSION

Senate
May 22, 1991 to July 10, 1991

Index

Senator BERUBE for the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Authorize Municipal Guarantees of Council of Government Obligations" (Emergency)

S.P. 660 L.D. 1736

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-269).

Which Report was READ.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending ACCEPTANCE of the Committee Report.

Senator BERUBE for the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Annex the Town of Richmond to Lincoln County"

S.P. 683 L.D. 1811

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-280).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-280) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senator THERIAULT for the Committee on TRANSPORTATION on Bill "An Act to Amend the Laws Governing License Plates and Placards for Disabled Veterans"

S.P. 585 L.D. 1538

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-247).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-247) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senator THERIAULT for the Committee on TRANSPORTATION on Bill "An Act to Authorize Operation of a 6-axle Single Unit Truck and a Combination Vehicle with a 53-foot Semitrailer Resulting from the Experimental Vehicle Program"

S.P. 674 L.D. 1788

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

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-248) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on HUMAN RESOURCES on Bill "An Act to Ban Smoking in Laundromats"

S.P. 215 L.D. 542

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-251)

Signed:

Representatives:

MANNING of Portland
GOODRIDGE of Pittsfield
SIMONDS of Cape Elizabeth
WENTWORTH of Arundel
PENDEXTER of Scarborough
TREAT of Gardiner
CLARK of Brunswick

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

Signed:

Senators:

CONLEY of Cumberland
BOST of Penobscot
GILL of Cumberland

Representatives:

GEAN of Alfred
DUPLESSIS of Old Town
PENDLETON of Scarborough

Which Reports were READ.

The Minority OUGHT NOT TO PASS Report was ACCEPTED.

Sent down for concurrence.

Divided Report

The Majority of the Committee on HUMAN RESOURCES on Bill "An Act to Protect Citizens from the Effects of Environmental Tobacco Smoke"

S.P. 422 L.D. 1134

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (S-252)

Signed:

Representatives:

MANNING of Portland
CLARK of Brunswick
GOODRIDGE of Pittsfield
SIMONDS of Cape Elizabeth
WENTWORTH of Arundel
PENDEXTER of Scarborough
TREAT of Gardiner
DUPLESSIS of Old Town

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

Signed:

Senators:

CONLEY of Cumberland
BOST of Penobscot
GILL of Cumberland

Representatives:

GEAN of Alfred
PENDLETON of Scarborough

Which Reports were **READ.**

The Chair moved to **ACCEPT** the Minority **UGHT NOT TO PASS** Report.

Senator **MATTHEWS** of Kennebec requested a Division.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Before we take action on this Bill, and I must, as the good Senator from Sagadahoc, Senator Cahill said, I must also beg the forgiveness of this Chamber, and this Body, of violating the three Senate Rules, or the two Senate Rules, or whatever it is that happens, but basically, to raise my concerns about the importance of protecting citizens from second hand tobacco smoke. We know very conclusively today, by the research from the private and public groups about the hazards of smoking, that those citizens that choose not to smoke, suffer the ill consequences, the ill health effects of those that choose to smoke, with respect to public areas.

This particular Bill is a Bill that I submitted, and I want to thank the Senator from Cumberland, Senator Conley, and the distinguished members of the Human Resources Committee, my seatmate to the left, removed by one seat, the good Senator from Cumberland, Senator Gill, and the Senator from Penobscot, Senator Bost, for an excellent Hearing. They worked hard that day, I know that these are very tough Bills. I know also that the progress that we have made here in Maine and across the country, with respect to protecting citizens from smoking, and the effects of smoke in the work place and in the public areas, has come as a hard fought battle against the Tobacco Lobby, a Lobby that exists with its tentacles in all fifty states, and I appreciate the members

of the Human Resources Committee, that I just mentioned, for their very hard work.

This is an extension, in my opinion, of that progress. We know now through a report from the EPA in Washington, that over 50,000 people have died due to the effects of secondhand smoke. We know from the studies that the risks of serious health effects are 20% higher of those that work in areas that have secondhand smoke. We know that the Tobacco Lobby must run to the hills, and leave town with their arguments. They are bogus, and we knew it from the start. It reminds me of the alcohol industry propaganda. This Legislature and our society, and government and citizens, have been strong in setting the record straight.

The amendment that is offered on this particular Bill will seek to protect the citizens from secondhand tobacco smoke. It has a number of exemptions that, again, are areas much, much too hard to nail down at this time. It provides the kind of flexibility that those that had some concerns from different segments of our state and society had with the legislation. So it is not as sweeping as it was intended to be in the beginning. It has been narrowed down in its focus, but, it goes to the heart of protecting the public health. Ladies and gentlemen, this is why I submitted this Bill, that is why I believe in this Bill. It is my right not to breath air that has secondhand smoke in it!

I just wanted to have an opportunity to discuss this issue. I know full well that we may have another day, but we may not. Having an opportunity to discuss this important public health issue, Mr. President, men and women of the Senate, I did want to put those remarks on the Record, and I ask for a Division. Thank you Mr. President.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. We have talked a good deal this evening about health care, and health care costs, and this seems to me an area that we can talk about without putting dollars and cents into a Budget.

I have to tell you, first of all, that I am a reformed smoker, and these folks are probably the worst kind, as you know. I wanted to preempt anybody from saying that. I am happy to report that the last time I had a cigarette was in this Chamber, in 1978. It was about 4:00 in the morning, and all of a sudden a star appeared, and a great happening took place, and I threw away my cigarettes. I have been very happy about it ever since.

The thing that I think is particularly important about this Bill, is that as the good Senator from Kennebec, Senator Matthews has indicated, it is a case of secondhand smoke. It says in so many words that you ought not to smoke where other people can have the disadvantage of it. I would like to suggest a couple of things that I thought were rather interesting that I read recently. It said that, "Non-smoking children raised in homes where two adults smoke cigarettes, have twice the risk of

cancer in adulthood". I also noted that in the same piece that I read that it said, "Passive smoking", that is other people's smoke, "ranks behind direct smoking and alcohol as the third leading preventable cause of death in the United States". I thought that those statistics were rather interesting. We don't often think of what we are doing to other people, those of us that smoke, or used to smoke, we are really only thinking about ourselves. This suggests that we ought to think about the people who smoke our smoke.

The other statistic that I thought was rather interesting was this, it says, "Cigarette related causes kill more Americans daily, about 1,000, than two fully loaded 747 Jumbo Jet crashes". Environmental smoke effects all of us. As the saying goes, "Your smoke should end where my nose begins". Thank you Mr. President.

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

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As a signer of the Minority Report, along with the other two Senators on the Human Resources Committee, I feel compelled at this point to rise and defend the Party's actions in reference to this piece of legislation.

In deference to the good Senator from Aroostook, Senator Collins, I have had a different experience with smoking. Most people I know seem to be trying to stop. I seem to be trying to start! It probably has something to do with the rebel era in which I was raised. The more people talked negatively about this stuff, the more interested I become. It is a very strange thing that is going on up in the Human Resources Committee. I don't think that we have had a Bill, or a series of Bills this session which have demanded more attention from the members of that Committee. They had a lengthy nine or ten hour Hearing where people from both sides took long periods of time to explain their strong feelings on this issue. The Bill prior to this one, sponsored by the good Senator from Kennebec, Senator Bustin, is but a small piece of what this Bill is all about.

I think that the wisdom of the Minority in reference to this Bill was guided by a number of factors. Yes, we are concerned about secondhand smoke, about smoke in the environment, and the impact that it would have on our citizens. I think that much evidence was generated at the Hearing, which would suggest at this point, the jury is still out on exactly what kind of an impact that smoke would have. But, the most important thing, I think, that we learned through these Bills, which came to our attention with these Bills, is the far reaching impact which this particular measure has. This Bill, if adopted, will ban smoking in almost every office place in the state, any office that the public has access to during the day will essentially be banned from smoking. We will be telling businesses what to do. Everything from pool halls, to barber shops, to Ma and Pa stores over fifteen hundred feet in area. We tell them, if we pass this Bill, that smoking is outlawed. I think it is about time we in this state, stop trying to tell businesses what they have to do, and what they should do.

I notice that the good Senator from Franklin Senator Webster, has finally perked up to hear a Democrat stand up for small business, but I believe in what I say. I will give you a couple of examples of about how smoking has been handled, at least in my area, and it shows you that businesses can use their head when they have to. I recently went to a concert at a small restaurant/bar in my town by the name of Raoul's, and they had two nights of appearances by a certain artist, and they advertised one night smoke free, and the other night, people could smoke if they chose. There is another restaurant in the Town of Gorham, by the name of Gorham Station, a well respected restaurant in the good Senator from Cumberland's District, Senator Esty, and they also take out adds in the newspaper. Monday night, smoke free night, people who enjoy dining out without having to be exposed to smoke, can go to that restaurant. And that is what they do to deal with this problem.

One of the things that really bothers me about this Bill, and you look at it carefully, and I happen to represent an area in a Senate District which has the most bars of any other District in the state, and I am proud of that in being able to represent a very worthy District. I try to do a good job for them. This Bill, if passed, would outlaw smoking in any bar or lounge that did not serve food, and primarily served alcohol, which I guess we would leave to the good people of the Department of Human Services to figure out what that means, and we know how things got turned around the last time we sent something down to them to work on. This Bill upsets me, and I think I really know what is going on under this, and in all of the smoking Bills, and I know that people will take great issue, but something that bothers me about this. It is not lost on me that this state is basically the birth place of any type of every movement to prohibit the consumption of alcohol. The prohibitionist movement started here, and there is a strong streak that still runs through the people of this state, and their desire to control people's behavior.

I know smoking is a dirty, nasty habit. But it also happens to be a lot of fun for some people, and they actually like to do it. For some reason, we feel compelled, and particularly here in New England, the northeast, to try to control people's behavior. We are going to tell them what to do. If we keep going down the path that we are going in relation to regulation of cigarette smoking, I believe we should just tax them mercilessly! Yes, the big "T", I am in favor of taxing these things as much as can be stood. That is where we should get the money to run our health programs. But, if we keep going down the path that we are going, we are going to end up having police checking to see if people are smoking. That is not a public policy we should pursue. For those reasons, I believe that we should adopt the Minority Report.

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

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Just to clarify what the amendment does to the Bill, this amendment repeals the entire Bill, and substitutes a similar, narrower proposal that prohibits smoking in enclosed

areas of buildings to which members of the public are invited or permitted, and in rest rooms that are available for public use. Among the exceptions made to the prohibition are taverns, lounges, private offices, small owner/operated stores, beano games, and civic auditoriums. Restaurants, hospitals, and the work place continue to be governed by their own laws. Portions of the existing law that are duplicated are repealed.

Ladies and gentlemen, in response to my good friend, the Senator from Cumberland, Senator Conley, the big difference between the statement about trying to control behaviors, the problem that I have with smoking and secondhand smoking for those that feel that way, is that I have no control in public buildings of inhaling that secondhand smoke. That is the issue here. I think that one should not forget that this is the central issue. We are subjected, whether we want to be or not, in public areas to ill effects of secondhand smoke.

As far as the mention of the character of Maine people, the home of the temperance movement, and the abolition movement, and all kinds of good moral movements, my response to those that feel differently than I is, to play tennis, go jogging, and go hiking, those are good healthy kinds of things.

THE PRESIDENT: The pending question before the Senate is the motion to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

A Division has been requested.

Will all those in favor of the motion 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.

28 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

Divided Report

The Majority of the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Create a State Municipalities Investment Pool"

S.P. 516 L.D. 1377

Reported that the same **Ought Not to Pass**.

Signed:

Senators:
BERUBE of Androscoggin
EMERSON of Penobscot

Representatives:
KERR of Old Orchard Beach
NASH of Camden
LOOK of Jonesboro
SAVAGE of Union
GRAY of Sedgwick
WATERMAN of Buxton
JOSEPH of Waterville

The Minority of the same Committee on the same subject reported that the same **Ought to Pass**.

Signed:

Senator:
BUSTIN of Kennebec

Representatives:
HEESCHEN of Wilton
LARRIVEE of Gorham
KILKELLY of Wiscasset

Which Reports were **READ**.

Senator **BERUBE** of Androscoggin moved to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This Bill has for a title, "An Act to Create a State Municipalities Investment Pool". I would like to give you a few reasons why you should vote for the Bill, then I will give you my reasons why I voted against this proposal in Committee.

First of all, governmental entities, that is to say municipalities, towns, plantations, counties, could invest if they wanted to, use their monies and join a pool of investors through the Maine Municipal Bond Bank, thereby getting access to greater opportunities for higher interest, if the market so warranted. There is as much as 300 million dollars that could effectively be involved in this proposal. It also is one of the reasons for the Bill that would give the Maine Bond Bank an opportunity to make some money, as the Director told us in Committee. The municipalities could turn their money from other investments into this Bond Bank, rather than the local banks, and the State Treasurer could, if he or she wanted to, and if the municipality wanted to, direct deposit the monies that come from the state to any municipal entity. Those are some of the reasons that I found for the Bill.

Then there were other reasons why. Currently, municipalities can now join other investment pools, if they so wish, through whatever investment organization that they might have in mind. Presently, when they invest in the local bank, or the State of Maine Bank, they have access to interest which is compounded on a daily basis. I mention local banks because, the friendly bank in town does many things for municipalities, and people as a general rule as well. For one thing, they allow free checking accounts for municipalities, that is one of the many services that they give at the local level, which would obviously be lost if banks are allowed to