

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME II

FIRST REGULAR SESSION

House of Representatives
May 17, 1993 to July 14, 1993

I supported it then and thought it was a good idea because I believe that the public understands it, it is something very simple and it seemed to open the windows and the doors of this place which is very easy to misunderstand if you are not part of the circle in the way that we normally do things.

It would seem to me that when we get here in Augusta, we often do tend to forget because of the pressures and the time upon us that there is a real world on the other side of the glass and sometimes that real world sees us and we see them through that glass in a somewhat distorted fashion. Any of these small things that we can do that opens the windows and the doors and lets in the sunshine and the air and chases away the shadows can only help that understanding and help our part of the process on our side of the glass.

It seems to me something like this, changing the Rules Committee and changing it in this fashion is something the public will understand very clearly, something we can handle very well, it can only stand to improve the whole picture. I believe it is time we started to do these things because I would remind us all in this body that with the ballots upcoming in this next election and in the one to follow in 1994 with term limits, cutting the size of the House, cutting the size of the legislature and many other things on the ballot, that if we don't clean our own house, I believe the public is more than ready to do it for us. We should start to show them that we can.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I just want to add my voice in support to the Joint Order on the floor. This is not strictly from the Representative from Greenville, this is supported by a good many people in the House, please add your support. I think this will add to the climate in the House in jointly working to do the work of the State of Maine.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage of Joint Order relative to Joint Rule 13-B (2/3 vote required). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 117

YEA - Adams, Ahearne, Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Beam, Bennett, Birney, Bowers, Brennan, Bruno, Cameron, Carleton, Carroll, Cashman, Chase, Clark, Clukey, Coffman, Cross, Dexter, DiPietro, Donnelly, Driscoll, Dutremble, L.; Faircloth, Farnum, Farren, Fitzpatrick, Foss, Gould, R. A.; Gray, Greenlaw, Heeschen, Heino, Hussey, Johnson, Joy, Kerr, Kneeland, Kontos, Kutasi, Larrivee, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Michael, Morrison, Murphy, Nash, Nickerson, Norton, Oliver, Ott, Pendexter, Pendleton, Pinette, Plourde, Plowman, Poulin, Rand, Reed, G.; Reed, W.; Richardson, Ricker, Robichaud, Rotondi, Rowe, Saint Onge, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Swazey, Tardy, Taylor, Thompson, Townsend, E.; Townsend, L.; Tracy, Treat, True, Tufts, Vigue, Wentworth, Whitcomb, Winn, Young, Zirnkilton.

NAY - Aliberti, Chonko, Clement, Cloutier, Coles, Constantine, Cote, Daggett, Gamache, Gean, Gwadosky, Hale, Hichborn, Hogleund, Holt, Jalbert, Joseph,

Martin, H.; Melendy, Michaud, Mitchell, E.; Paradis, P.; Pfeiffer, Pineau, Pouliot, Rydell, Saxl, Sullivan, Walker.

ABSENT - Barth, Campbell, Caron, Carr, Cathcart, Dore, Erwin, Farnsworth, Hatch, Hillock, Jacques, Ketterer, Kilkelly, Marsh, Mitchell, J.; Nadeau, O'Gara, Ruhlin, Townsend, G.; The Speaker.

Yes, 102; No, 29; Absent, 20; Paired, 0; Excused, 0.

102 having voted in the affirmative and 29 in the negative with 20 being absent, the Joint Order was passed. Sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

TABLED AND TODAY ASSIGNED

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

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-357) - Minority (4) "Ought Not to Pass" - Committee on Human Resources on Bill "An Act to Prohibit Smoking in Restaurants" (H.P. 496) (L.D. 654)

TABLED - May 20, 1993 by Representative TREAT of Gardiner.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

On motion of Representative Treat of Gardiner, retabled pending the motion of the same Representative that the House accept the Majority "Ought to Pass" as amended Report and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-358) - Minority (4) "Ought Not to Pass" - Committee on Human Resources on Bill "An Act to Protect Maine Citizens from the Effects of Environmental Tobacco Smoke" (H.P. 666) (L.D. 904)

TABLED - May 20, 1993 by Representative TREAT of Gardiner.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: I urge that you support today the 9 to 4 recommendation of the Human Resources Committee that we enact this bill which will protect citizens from the effect of tobacco smoke.

Why should we do this and why should we do it now? I know that there have been bills before this legislature before which would extend and further the protection of persons in public places from the effects of tobacco smoke. In December 1992, this past December, the Federal Environmental Protection Act classified environmental tobacco smoke, or second-hand smoke also known as ETS for short, as a

Class A carcinogen. What this means is that tobacco smoke has the same type of effect, it is in the same category as benzene, asbestos and radon. The consequences of exposure to this contaminant are significant and they are particularly significant in terms of their impact on children. According to the EPA report, between 2,500 and 3,300 lung cancer deaths each year in the United States are caused by second-hand smoke, not direct smoking. ETS also causes 30 times as many lung cancer deaths as all regulated air pollutants combined. We have a lot of debate in this House about how much we should be regulating air pollutants from industry based on health concerns, the fact is that environmental tobacco smoke causes 30 times the lung cancer deaths as all of those other pollutants combined, yet, we do not regulate it in the same way. In fact, there are more than 4,000 chemical compounds that have been identified in tobacco smoke.

In terms of the impact on children, and these are particularly significant, 150,000 to 300,000 infections a year, respiratory infections, have been found in infants and young children up to 18 months. It is also a fact that ETS exposure has been causally linked to increased prevalence of fluid in the inner ear which, as many parents know, is a major problem with young children as well as symptoms of upper respiratory track infections.

Finally, not really finally, because this report is an inch and a half thick but finally in terms of my comments on the health impact, ETS has been linked to additional episodes in increased severity of symptoms of children with asthma and that is anywhere from 200,000 to 1 million children that are affected in this way. I know that many people here are in fact parents of children with asthma and know the terrible consequences of this disease.

EPA's work has been lobbied by persons around the country and I would just quote from one Louis Sullivan, the former Secretary of the U.S. Department of Health and Human Services who stated in January of this year "EPA's work stands proudly as one of the most studied health reports ever. Its conclusions were maintained and even strengthened during the many months of review and debate. The EPA report went through a peer review, it was approved by a scientific advisory board consisting of prestigious independent scientists from around the world."

I would just like to briefly go through what the bill does and does not do so that you have a clear picture of what you will be voting on today. I actually would like to have you turn your attention, if you still have it on your desk, to the orange fact sheet that was distributed at the request and expense of Representative Simonds who is the prime sponsor of this legislation, because it is an excellent outline of the bill in its amended form from the committee. I think it will be helpful to you in understanding what this bill does.

Specifically, L.D. 904 will prohibit smoking in all enclosed areas of public places. These enclosed public places are defined to include retail stores under 4,000 feet. Right now, retail stores over 4,000 already are covered by the smoking ban. This provision basically accomplishes a level playing field so all retail stores are dealt with in the same way. In addition, public meetings, public areas of public buildings, ferries, public transportation, buses and jury rooms will be covered. Many of these areas already are covered by existing laws. We have

been adding them to the law in a piecemeal fashion, for example, ferries were added last year, that type of thing.

This bill basically has an overall law that says that if it is a public place smoking isn't allowed except in designated smoking areas which must be enclosed areas so that the smoke doesn't seep out.

This bill does not affect certain other areas, however, and I want to be very clear about that. This bill does not change in any way the smoking in restaurant's law. We are having another bill which will be discussed possibly on Monday dealing with changing the laws regarding restaurants, but I want you to understand that today this bill does not affect existing laws and we can either change them or keep them the same when we deal with that question.

In addition, it does not ban smoking in taverns and lounges, bars, more colloquially known. The amendment to the bill defines taverns and lounges as "establishments with a room and a restaurant, hotel or motel, completely enclosed with floor to ceiling walls and doors with a primary purpose of serving alcoholic beverages. A tavern or lounge derives more than 50 percent of its revenue from alcoholic sales and entertainment fees."

This is the precise definition that was used in the Vermont law. The Vermont law was recently passed. It is actually more sweeping than the Maine law. It was just signed into law by the Governor or will be in a day or two. In fact, the Vermont law actually bans smoking in some outdoor places. This bill does not go that far.

In addition, this bill does not affect the existing provisions concerning patients in hospitals or other treatment facilities. Those will continue to be allowed to smoke under the existing provisions of law. In addition, the bill does not prohibit professionals from smoking in their private offices nor others from smoking in offices if everyone consents in the public spaces of those offices.

So, for example, if you had a client coming into a law office, the case was made to the committee that many persons may wish to smoke and if everyone in the public reception area of the law office agreed that it was okay, smoking would be permissible.

In addition, the bill does not affect in any way smoking done as part of a religious activity or a cultural activity whether the activity is public or private. In addition, the law does not affect Beano or Bingo games where we understand there is a high correlation between smokers and Bingo and Beano players.

The committee worked very hard to make this a public health measure. We are particularly concerned about the health impact on children, therefore, allowing smoking in taverns and lounges, allowing smoking in Bingo and Beano halls, is an appropriate thing to do at this time. But, we were particularly conscious that we wanted to affect those areas of public places where children are frequenting and that is what the bill does do.

I think that pretty much sums up the law. I am sure there will be questions that people will have about the particulars of it so I think I will just wait to see if there are those questions and see if I can answer them specifically.

I would just say that in some ways this is not a really huge change from what we have today. As I stated, we already do not allow smoking in most public areas. This extends that same law to other

public areas that are not currently covered, for example, the retail stores under 4,000 feet. It also requires that the smoking areas which may be designated (it doesn't prevent designated smoking areas) be enclosed so that they in fact keep the smoke from the public areas. That is the major changes there are in this bill. I think that it is something that you ought to be supporting at this time. Now that we know how bad cigarette smoking is for those who are simply breathing it, not by choice, we have a responsibility to deal with that and to protect the public health of all the people in this state who may be exposed to that environmental smoke.

I urge you to support the Majority "Ought to Pass" Report on this bill.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Mr. Speaker, Men and Women of the House: I spent two hours practicing last night to be quick and to be loud.

I would just like to tell you my side of this issue. We fight this issue every year it seems. Being a smoker myself, I thought when we came out with this bill, give it up, EPA reports, everything — give up the ghost, forget it, I must be wrong. So, then I thought, well, maybe because I was getting phone calls, maybe I should check into this just a little bit more. Smoking does smell bad, there is no doubt about it. But, I did look into some of the EPA reports and, as mentioned by the earlier speaker, the EPA sent many of their reports to scientific advisory board. What I found out was, there were several reports that were all kind of put together into one large report that the EPA came out with. I didn't go through all the reports but I have several documents here with some of the reports.

I would like to mention to you because this put some doubt in my mind after I thought the battle was lost and I thought perhaps I had made a mistake, I thought, well gee, this puts some doubt in my mind. One of the members of that scientific advisory board was a gentleman by the name of Dr. William Blott and he was indeed a member of this SAB board and he cast some (unintended perhaps) light on what is really going on with the EPA. Dr. Blott is a government scientist with the National Cancer Institute and he was co-author of a large study that found no association between lung cancer and the EPA report. Nonetheless, Dr. Blott voted with the rest of the panel to accept the EPA Report. These are the reasons that he gives, I am quoting from this article, "It is biologically plausible" (biologically plausible) "that prolonged inhalation of ETS or environmental tobacco smoke may result in some increased risk of lung cancer among nonsmokers. Thus, despite the uncertainty about the magnitude of the risk of lung cancer due to passive smoking, the overall evidence is sufficient to declare that prolonged exposure to ETS is ideologically related to lung cancer and that ETS should be regarded as an EPA Class A carcinogen."

Well, I want to add emphasis to the word ideologically-related, but I would ask you, isn't science supposed to be objective, unbiased and disinterested? Clearly, ideologically has no place in science and it can only be corruptive to science. When I read the word plausible, plausible could be described as that which has appearance of truth but might be deceptive as in a plausible excuse. So,

after seeing how the scientific data on ETS has been manipulated, I can only wonder how many other things in government studies have been manipulated.

I would suggest to you that this only leaves to me some doubt in my mind about these reports and these tests. So, I just hope that when you vote on this issue that you will think about the EPA and how they came across with the results of some of these tests. I would be happy to share these things with you later.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: I wanted to respond to the concerns of the Representative from Scarborough, Representative Pendleton. These issues that she mentioned were raised to the committee. I would like to read from a letter that we received or at least that came to me as co-chair of the committee from the Missouri Department of Health and Ross Brownson, PhD, who is actually a member of the process that was involved. He says in his letter, "I have been informed of recent testimony from Dr. Larry Holcomb to your committee on proposed clean indoor air legislation. Since Dr. Holcomb quoted a study that I authored, I feel that it is important that I respond to several of his statements." This is the type of comments that we got that are similar to those that Representative Pendleton was concerned about. To continue from the letter he said, "To my knowledge, the only 'scientists' who have raised questions about the EPA report are those funded by pro-tobacco interests. The EPA report is a comprehensive summary of more than a decade of research on the health effects of passive smoke exposure. It is solid science. As you know, the most important outcome of the EPA report may be its designation of passive smoke as a Group A (known human) carcinogen. This means that passive smoking is among a select list of cancer-causing chemicals including benzene, asbestos and coke oven emissions. You might say this group is the EPA's 'most-wanted list' or what it considers the most dangerous group of exposures. Annually, an estimated 3,000 lung cancer deaths occur in the United States among nonsmokers because of exposure to passive smoke.

The EPA report was based on sound epidemiologic principles. The scientific review group that guided development of the report was a distinguished panel of scientists with many years of training and experience in this field."

The testimony that we had in our committee from the individual this man is rebutting said that EPA did not consider his report. As the letter says, the report was published after EPA came out with its report but it went back and looked at it and did not change its results.

The letter continues, "The findings of the EPA report and the growing unwillingness of nonsmokers to be exposed to passive smoke have led to complete bans on smoking in many public places. I hope that Maine will set an example for the rest of the nation by enacting stringent clean indoor air legislation."

As I said, it is from Ross Brownson who is the Director of the Chronic Disease Prevention and Health Promotion Bureau with the Missouri Department of Health and he also authored a study which EPA relied on.

I hope that this addresses to some extent the concerns of Representative Pendleton. I think there

is very, very solid evidence on this point and it really cannot be questioned on a scientific basis.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendexter.

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: The rationale for granting smokers the rights to spread their toxic fumes around has disappeared. Die-hard smokers egged on by the tobacco companies that supply them have long tried to cast their habit as a civil liberties issue claiming they should be free engaged in a practice that harms no one but themselves. But, the evidence is now overwhelming that smokers endanger all those forced to inhale the lethal clouds they generate. That makes smokers at least a small hazard to virtually all Americans and a sitting target for tighter restrictions. Evidence that smoking can harm nonsmokers has been accumulating for the last decade. In 1986, two of the nation's most prestigious health authorities, the National Academy of Sciences and the Surgeon General, concluded that fumes generated by smokers can cause lung cancer in adult nonsmokers and respiratory problems in the children of smokers.

The EPA marshalled an enormous array of evidence to build an overwhelming case that tobacco smoke is hazardous to innocent bystanders. The smoke that emanates from a smoldering cigarette contains virtually the same cancer-causing compounds as the smoke inhaled by the smoker. The inhaled smoke is known to cause cancer. It would be astonishing if the environmental smoke were not carcinogenic as well. The main difference is that bystanders have no choice in the matter.

I would like to share with you another study that hasn't been mentioned. In fact, it was the study that was done here in Maine in Scarborough in a lab known as the Foundation for Blood Research. It was a study on the environmental tobacco smoke exposure during infancy. The findings of the study were published in the American Journal of Public Health in October of 1990. What it did was collect information about household smoking habits from 518 mothers. These are all Maine mothers when they made their first well baby visit with a six to eight week old infant. You need to know that there is a metabolic derivative of nicotine called cotinine which is measurable in urine. What this study did was it measured the urine sample of these infants at their six to eight week old well baby visit for cotinine levels, concentration levels in their urine. And interestingly, the levels corresponded directly to the amount of the environmental tobacco smoke that they were exposed to. Let me just share with you three facts. Forty-four percent of the infants had concentrated cotinine levels in their urine if the mother was not the smoker, 91 percent if the mother was the only smoker and 96 percent if there was both the mother and another smoker in the household.

I would share with you that the presence of a nicotine by-product in the diapers of our infants clearly demonstrates that we do inhale and process nicotine in our system by merely being in the presence of environmental tobacco smoke. Indeed, we are actually smoking when we inhale environmental tobacco smoke.

The only real issue, I guess, is how serious should we consider the environmental hazards. The spouses of people who smoke at home might face a 1 in

500 chance of developing lung cancer, that is far less than the 1 in 10 or 1 in 20 chance faced by the smokers themselves but it is far more than society tolerates for exposure to other cancer-causing chemicals. No one would grant his neighbor the right to blow tiny amounts of asbestos into a room or sprinkle traces of pesticide onto food. By the same logic, smokers have no rights to spew even more noxious clouds into the air around them.

This legislation is a tightening of restrictions on smoking in places frequented by the public. In the name of public health, I encourage you to support and vote for the "Ought to Pass" motion before you.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, I would like to pose a question through the Chair.

I seem to be lost here from the procedural point of view. We have tabled number one, we are taking up number two. Does that take care of number one if number two passes? It seems you have the cart before the horse here. Could you explain, I am a little thick on those things.

The SPEAKER: Representative Jalbert of Lisbon has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: The sponsor of the bill is not present today and wished that we would postpone debate on it.

The SPEAKER: The Chair recognizes the Representative from Alfred, Representative Gean.

Representative GEAN: Mr. Speaker, Men and Women of the House: I wanted to speak early on this so there would be somebody left to listen. I want to thank both of you for remaining to hear it.

This will be brief. I am actually convinced. I have heard the data, I have heard the reports, I have put up with three years of this testimony. I am convinced that smoking incites the effects of side-stream smoking are hazardous to our health. There is no doubt in my mind. What Representative Simonds has done with this bill, what Representative Treat has done with this bill, what we have all done with this bill is laudable, it is right on target, these arguments are not new. I would bet the majority of us believe that there are 4,000 killer compounds in tobacco smoke and that smoking does increase the prevalence of fluid in the inner ear and I also know that it costs Mainers some \$260 million per year in related health care costs.

The argument of Representative Pendleton though takes me back to where I began with this on our committee saying, that is good information, we ought to do something about it. Now, the question to our committee, before, now and later remains, why then if smoking and the effects of side-stream smoking are so hazardous to our health and I grant that they are — I say that as a smoker who tried to pass a late night liquor tax amendment, you might remember, which was defeated, but if this is the case, and I believe it is — I should not say if, this is the case, why then in this bill are we pandering to the liquor lobby still? Because you will note that it is okay to smoke in any place that sells a lot of ethyl alcohol. It is not okay to smoke in a lot of other places, it is okay though to smoke in taverns, lounges, those places that make their money selling liquor, ethyl alcohol, a substance that many of you

are familiar with because it happens to kill some 56,000 people per year on the highways of this country. A lot of those people are all those smokers that hang around those taverns trying to get home.

My question remains to the sponsor of the bill to anybody who would respond, if this a great bill for all people, why then does it not apply to those places that sell ethyl alcohol?

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

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: Actually, if you want to excuse us of pandering, save it for L.D. 654, that's the bill which contains exemptions for bars. L.D. 904 does not deal with that issue. L.D. 904 merely makes it the general policy of the state that you cannot expect to smoke in a place unless you are told that you can.

I would like to quote from Dr. Lani Graham who is the Director of the Bureau of Health, I found her testimony particular convincing on this bill. She referred to the EPA study you have all heard so much about and she said that it showed that approximately 3,000 who do not smoke die of lung cancer as a result of their exposure every year in the United States. This is considered a low estimate, it does not take into account other diseases associated with exposure to ETS. Yet, this low estimate represents approximately 250 times the number of deaths attributed to involuntary exposure to asbestos each year. Nevertheless, the State of Maine is currently spending millions of dollars to remove asbestos from public buildings while allowing environmental tobacco smoke exposure to continue.

In addition, there are approximately 86,000 people in Maine who are severely affected by tobacco smoke. I have discovered that a great many of them live in my district. They are allergic to it or have a disabling condition which makes second-hand smoke dangerous for them in many ways. It means that they cannot go out in public as you and I can and expect to participate in the activities that you and I can.

We have recently passed the mandatory seat belt law. The arguments against it seemed to be based on personal liberties but I think the argument in that case and in this are the same, that your personal liberties end when you begin to affect me, when you affect my health, when you expect me and my children to breathe your toxins. That is why I am on the Majority Report for L.D. 904.

The SPEAKER: The Chair recognizes the Representative from Penobscot Nation, Representative Attean.

Representative ATTEAN: Mr. Speaker, Ladies and Gentlemen of the House: This L.D. before you in its amended form is a nearly duplicate of the bill which this House defeated nearly two years ago and it is as flawed as the prior bill.

Before I tell you exactly what this bill does do, and it does do a lot of things, it opens up a Pandora's box, a can of worms, or any other aliteration you care to use.

I participated, not only in the public hearing but in the work session, and I agree if ETS, environmental tobacco smoke, is as dangerous as everyone says it is, then why didn't this committee do as I suggested and ban all smoking within the borders of Maine, all smoking every place. Instead, what this bill chooses to do is pick and choose who may smoke and where they may smoke.

The bill in its form, as amended, and some of these amendments were, quite frankly, at my initiative. I am sure you are all aware of the issue that surrounded the controversy of including Native Americans two years ago. Unfortunately, that same discriminatory language saw its way into the initial printed bill and it has been eliminated in the amendment. However, the amendment still fails to take into consideration — please let me just read this — "Smoking is not prohibited in any area where undertaken as part of a religious ceremony or as a part of a cultural activity by a defined group." I ask you this, does the State of Maine have the right to define what is a religious activity, what is a cultural activity or what constitutes a defined group? I would suggest to you that that power may be abused.

The amendment also provides exemptions for Bingo games. That again, I admit, was at my initiative. My argument was that the high stakes Bingo games on Indian Island attracts 20 to 25 busloads of Bingo players all over the state, the Atlantic States and the Atlantic Provinces. They would not come here if Bingo halls were not exempt. They would not stay in the 400 plus hotel rooms that are used in the Bangor area every time that we have a high stakes Bingo game.

What this bill does do is it repeals a lot of existing law that I am sure many of you are not aware and what it covers. It does repeal the language concerning public meetings. It does repeal the language concerning publicly-owned buildings. Many of you are not aware that it is taking a collective bargaining right away from school employees and by repealing the existing law on smoking in public buildings, it takes away a collective bargaining right of public employees.

Furthermore, by repealing existing laws, it takes away the exemption that was granted to chartered buses when the against smoking bus bill was passed a few years ago. So, now it will be all right to smoke in the stipulated places contained in this bill but all of the other exemptions that were granted, for good reason I'm assuming, will now be gone.

I wanted to speak a little bit about what Representative Gean talked about, the hypocrisy of banning smoking in public buildings except for bars, and in that context I wanted to allude to the threat to children. Now you may think that this bill will protect children from ETS but please remember that earlier this year a bill was passed allowing children to go into lounges as long as they are properly accompanied by either a parent or a guardian.

This bill goes further when I speak about Pandora's box, it has new language in here which says, "A person may not discharge, refuse to hire, discipline or otherwise retaliate against an employee or applicant who pursues any remedy available to enforce the requirements of this chapter." Now on the face of it, that sounds very noble but you and I are practical enough to realize that this just gives a further weapon in the hands of those who are determined to stamp out smoking and I mean that literally. It also attaches a fine to a person who violates this provision — what are we doing here? Why are we stigmatizing even further a class of citizens in Maine who pay their just share, if not more than their just share towards the state budget coffers. I realize that that is called the Sin Tax but we don't seem to mind spending it. It is not dedicated to cure the problem that it was originally

intended for.

I ask you to think twice about this piece of legislation, it is much more broad and much more far-reaching than it appears at first.

When I first started in this legislature there were numerous smoking bills for various specific places, Laundromats, Bingo halls, etcetera, etcetera. My suggestion then, as it is now, is let's do something about the indoor air quality. If you want to do something, mandate circulating clean air. Don't just pick on smokers as the prime cause of indoor pollution. The Department of Human Services had to move out of a building only last week because of the conditions of the building and that wasn't caused by smoking.

I ask you again to consider everything that is contained in this legislation, it is broad, sweeping and far-reaching, it picks and chooses who may smoke and it does not do the job it is intended to do. It does not protect that class of citizens that everyone is so concerned about, the children. By granting exemptions, it will not protect them.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief at the Chair's request.

I would just like to bring a little different aspect to what you are thinking about today. I am the mother of two children who are asthmatics. When I take my children out, I have a choice, I can expose them with medication and hope that they do okay or I can expose without medication and take a risk. The medication that I give my children for asthma is steroids. I don't know if you have ever taken steroids for asthma but it is the equivalent of drinking 10 cups of coffee in two quick shots. Imagine taking a four year old to the mall who has just had 10 cups of coffee in two quick shots. The other thing that this steroid does is it suppresses the adrenal glands. Sometimes my children have asthma attacks so bad that I have to give them high doses of steroids which suppress their adrenal glands for up to two to three months. That's what I have to do to protect my children from cigarette smoking in public.

Another thing that came to light when I take asthma medicine, I looked it up in the Physician's Daily Reference, smokers who take the same medicine that I do can take up to a year of continuous use to gain the same results that I gain in a matter of weeks. Nevertheless, what I am taking is not good for me and I have to take it to protect myself when I go out in public and so do my children. Perhaps you have never experienced the fear of watching a three year old gasp for breath, wondering if you can get her the medicine in time.

We saw last week how a woman died from an asthma attack. The fear that comes on when you are trying to protect your child from someone else's habits might be just a little bit too much. It is for me.

I ask you to consider a little bit of the information that I have shared with you on how we protect our children at this point.

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Farnum.

Representative FARNUM: Mr. Speaker, Ladies and Gentlemen of the House: Ever since Miles Standish brought tobacco back to England, which is several

hundred years ago, people have been smoking and smoking here in the United States. I don't smoke, I hate smoking, but we have been arguing for weeks now on the rights of minorities in this House and I will fight to keep the smoking bill out.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Sullivan.

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House: I guess I am one of those statistics, I am asthmatic. I used to be a smoker but I have been a nonsmoker for 18 years now. I know there are all kinds of reports, they come on a national basis, on a statewide basis and I can tell you just from my own experiences that not every asthmatic attack you have is triggered by smoke, there are other factors also. I can tell you this, when I have had prolonged exposure to secondary smoke, then I always have an asthmatic attack, some more serious than others. I also have the medication that keeps it under control very well. However, sometimes you are caught by surprise and, therefore, you can't help it. I also then have to use the steroids or antibiotics — when one time, the prolonged exposure, not only triggered the asthmatic attack, but it led to bronchitis so, therefore, I lost two work days and I had to go onto prescribed medicine as well as the steroids to get back under control.

I am saying that I think this is one step. Just for my own self-preservation, I guess I have to talk in terms of hoping that we can eliminate the exposure to secondary tobacco smoke.

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

Representative BRENNAN: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of the Majority "Ought to Pass" Report on this bill. I think all of us are committed to passing reasonable legislation, fair legislation. I think this bill passes that standard. It is crafted in a way to protect the rights, to protect the health — the majority, 75 percent of people in this country do not smoke, while at the same time, being sensitive to minorities, 25 percent of people who do smoke.

In the Human Resources Committee we heard lengthy testimony, not only from health professionals, but from those people that are affected by secondhand smoke. I was particularly interested in hearing from people who aren't able to fully participate in our community in the state because they can't go to malls, because they can't go to Civic Centers and they cannot go to other public places because of the presence of secondhand smoke. In addition to that, there was compelling testimony from a number of public health officials about the health effects of secondhand smoke.

I do not believe that the Cumberland County Civic Center or the Maine Mall will for one day, for one minutes, one dollar, suffer because of the passage of this bill. If anything, I believe the passage of this legislation will assist business, will help the economy because we will be able to market Maine as a clean state, that its public facilities are available to all members of the public and that it will be a clean and safe environment. I believe that message is in the best tradition of Maine.

I urge you to support this legislation.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Ladies and

Gentlemen of the House: I urge you not to accept the Majority "Ought to Pass" Report. We are not going to discuss the restaurants until next week but in this bill it does mention restaurants — restaurants will be affected as no other tourist industry will be affected. I am not talking about southern Maine in particular, I am talking about the coast that is the Canadian border, I am talking the full length of the State of New Hampshire, the border towns. People do not want to and will not want to come to the State of Maine where they do not have the privilege and the courtesy of having a cigarette. They talk about the secondhand smoke etcetera, we cannot clean up our rivers, we do not put stricter environmental restrictions on them — what about the smokestacks, the emissions, we do nothing about that — no, we don't want to offend those people. We, as smokers, realized a few years ago, perhaps nine years ago we started designating areas so that we could address the concerns of the nonsmoker, it has now gotten so that we are the outcasts. I will not let them shame me because I smoke, I am not ashamed of it, I pay the dues, I pay the taxes, but the taxes roll into the State of Maine too. As one person said, they certainly don't object to that.

I urge you to vote against the pending motion on the floor.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative Ault.

Representative AULT: Mr. Speaker, Ladies and Gentlemen of the House: I am very proud to be a cosponsor of this piece of legislation. As a mother of a young child with asthma, I am acutely aware of the effects of tobacco smoke in the air my son breathes.

Representative Treat expressed my concerns relative to the impact that tobacco smoke has on children and I concur with Representative Plowman about what life is like with an asthmatic child.

In my other life, I work on a college campus that has taken the courageous step to ban smoking on campus. Students, faculty and staff have adopted a tobacco smoke-free policy which has met with much unexpected success. For these reasons as well as those articulated by other proponents this morning, I urge you to support the Majority "Ought to Pass" Report.

Mr. Speaker, when the vote is taken, I request the yeas and nays.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Simond.

Representative SIMOND: Mr. Speaker, Ladies and Gentlemen of the House: As sponsor of the bill, I did want to comment on some of the points made here this morning.

First and foremost, please consider this a public health measure. Hundreds of lives can be saved at no cost. This bill is not aimed at smokers, it is aimed at smoke and that had better be the case because I am sitting beside my good friend from Windham who is a confirmed practitioner and another good friend, a confirmed practitioner, sitting behind me so I want to make that point. It is not aimed at smokers, it is aimed at smoke.

I hope you keep your attention on what has been described already as the 85,000 people in the State of Maine who have serious, chronic lung problems, who cannot enter public places and expose themselves to environmental tobacco smoke. 85,000, that's 10,000

more than all of the population of Bangor and Lewiston put together.

Comments of the good Representative from the Penobscot Nation — she is right when she says that we have picked this and picked that and chosen this and chosen that over the years. Since 1980, we have done just that and here's the list of the laws that we now have on the books, 18 to 20 different laws. The first thing this bill does is simply repeal and replace those with a common understanding that we prohibit smoking in public places with some exceptions. So with that flat prohibition, we have a more sensible, a much more understandable and simple law to contend with. Then we go on to say that we are leaving in place some of the statutes that we now have. It leaves in place, for example, the restaurant law, which the Representative from Sanford just referred to, it doesn't change that. It leaves in place the working place law, it doesn't change that. It leaves in place the schools and leaves in place the hospital laws. Those are the laws that are not affected by this.

I think we have added some reasonable exemptions of the kind that the Representative from the Penobscot Nation had suggested to us, both reasonable and prudent.

Comments on the methodology — you know, everybody agrees that the studies done have been first-class, scientifically valid, scientifically credible with one major exception and that is the tobacco industry. Let's face it, they are putting on a full court press against these laws and just because I happen to be standing at the right place at the right time, it became very apparent to me that there is a very sophisticated telephone system going on even to the extent of using third party prompters and helpers. So, the methodology is that, yes, there are 16 or 18 different studies that were chosen to look at but there is a very valid methodology called metanalysis by which you take these studies and find the common pattern and reach valid conclusions. That is what the reputable, credible researchers have done.

Why are we excluding and not mentioning or covering lounges and bars? The simple fact is that we are going incrementally, we feel that there is a higher purpose, there is a more compelling reason to cover other places and that bars and lounges do not traditionally cater to families and to children.

Finally, I would simply say again, please keep your attention on this as a public health measure. If you can go with this and accept the Majority "Ought to Pass" we will be substantially reducing cases of lung cancer, we will be reducing the cases and incidences of severe infections and asthma attacks, particularly by children. For the first time in Maine's history, we will be allowing over 85,000 people access to public places which they do not now have that just because of the exposure to environmental tobacco attacks. I urge your support.

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

Gardiner, Representative Treat, that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative True.

Representative TRUE: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Bethel, Representative Barth. If he were present and voting, he would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Hallowell, Representative Farnsworth. If she were present and voting, she would be voting yea; I would be voting nay.

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

Representative RICHARDSON: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Millinocket, Representative Clark. If he were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Rumford, Representative Erwin. If she were present and voting, she would be voting nay; I would be voting yea.

The SPEAKER: The Chair recognizes the Representative from Greene, Representative St. Onge.

Representative ST. ONGE: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from West Gardiner, Representative Marsh. If he were present and voting, he would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Larrivee.

Representative LARRIVEE: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Biddeford, Representative Caron. If he were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Cloutier.

Representative CLOUTIER: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Orono, Representative Cathcart. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The pending question before the House is the motion of the Representative from Gardiner, Representative Treat, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 118

YEA - Adams, Aliberti, Ault, Bailey, R.; Beam, Bennett, Bowers, Brennan, Bruno, Carleton, Carroll, Cashman, Chase, Coffman, Coles, Constantine, Cross, Daggett, Dexter, Donnelly, Faircloth, Foss, Greenlaw, Gwadosky, Heeschen, Heino, Hichborn, Holt, Johnson, Ketterer, Kontos, Lemke, Lemont, Lindahl, Lipman, Lord, MacBride, Melendy, Mitchell, E.; Mitchell, J.; Morrison, Norton, Oliver, Ott, Pendexter, Pfeiffer,

Pinette, Plowman, Rand, Reed, G.; Rowe, Ruhlin, Rydell, Simonds, Simoneau, Small, Spear, Sullivan, Taylor, Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Whitcomb.

NAY - Ahearne, Aikman, Anderson, Bailey, H.; Birney, Cameron, Chonko, Clement, Clukey, Cote, DiPietro, Driscoll, Dutremble, L.; Farnum, Farren, Gamache, Gean, Gould, R. A.; Gray, Hale, Hoglund, Hussey, Jacques, Jalbert, Joseph, Joy, Kerr, Kneeland, Kutasi, Libby Jack, Libby James, Look, Marshall, Martin, H.; Michael, Michaud, Murphy, Nash, Nickerson, Pendleton, Plourde, Poulin, Pouliot, Reed, W.; Ricker, Robichaud, Rotondi, Saxl, Skoglund, Stevens, A.; Stevens, K.; Strout, Swazey, Tardy, Thompson, Tufts, Vigue, Winn, Young, Zirkilton.

ABSENT - Campbell, Carr, Dore, Fitzpatrick, Hatch, Hillock, Kilkelly, Nadeau, O'Gara, Townsend, G.; The Speaker.

PAIRED - Paradis (yea)/Erwin (nay); Cloutier (Nay)/Cathcart (yea); Marsh (yea)/St. Onge (nay); Barth (yea)/True (nay); Richardson (yea)/Clark (nay); Larrivee (yea)/Caron (nay); Farnsworth (yea)/Pineau (nay).

Yes, 66; No, 60; Absent, 11; Paired, 14; Excused, 0.

66 having voted in the affirmative and 60 in the negative with 11 being absent and 14 having paired, the Majority "Ought to Pass" as amended Report was accepted, the bill read once.

Committee Amendment "A" (H-358) was read by the Clerk and adopted and the bill assigned for second reading Monday, May 24, 1993.

The following items appearing on Supplement No. 1 were taken up out of order by unanimous consent:

SENATE PAPERS

Bill "An Act to Establish the Maine Education and Training Export Partnership within the Department of Economic and Community Development" (EMERGENCY) (S.P. 504) (L.D. 1528) (Governor's Bill)

Came from the Senate, referred to the Committee on Housing and Economic Development and Ordered Printed.

Was referred to the Committee on Housing and Economic Development in concurrence.

Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$39,500,000 to Match Available Federal Funds for Improvements to Highways, State and Local Bridges, Airports, Cargo Ports and the Ferry Service" (S.P. 505) (L.D. 1529) (Governor's Bill)

Came from the Senate, referred to the Committee on Transportation and Ordered Printed.

Was referred to the Committee on Transportation in concurrence.

The following item appearing on Supplement No. 2 was taken up out of order by unanimous consent: