

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

hydro, utility generating units or purchases from other utilities. All of those currently require pre-approval by the PUC. They chose to take on this additional responsibility because, unlike what the Representative from Presque Isle said, their primary concern is ratepayers. Because of that primary concern, they are looking at a process that would allow them to review major expenditures, keep in mind the threshold is \$100 million before that becomes a cost that has to be negotiated in a rate design case after the purchase has already been made.

I urge you to support the majority of the committee and vote for passage to be engrossed.

The SPEAKER: The Chair will order a vote. The pending question before the House is passage to be engrossed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

64 having voted in the affirmative and 49 in the negative, L.D. 376 was passed to be engrossed as amended by Committee Amendment "A" (H-347) and sent up for concurrence.

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

SENATE DIVIDED REPORT - Majority (12) "Ought to Pass" as amended by Committee Amendment "A" (S-156) - Minority (1) "Ought Not to Pass" - Committee on Labor on Bill "An Act to Improve the Unemployment Collection Process for Employer Contributions" (S.P. 264) (L.D. 802)

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-156)

TABLED - May 21, 1993 (Till Later Today) by Representative PARADIS of Augusta.

PENDING - Acceptance of Either Report.

Subsequently, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (S-156) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, May 25, 1993.

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

An Act to Revise the Correctional Facility Board of Visitors Laws (H.P. 212) (L.D. 274) (C. "A" H-186)

TABLED - May 21, 1993 (Till Later Today) by Representative PARADIS of Augusta.

PENDING - Reconsideration (Returned by the Governor without his approval)

On motion of Representative Paradis of Augusta, retabled pending reconsideration (Returned by the Governor without his approval) and specially assigned for Tuesday, May 25, 1993.

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

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 21, 1993 (Till Later Today) 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: This the third and I hope the final bill dealing with smoking that we have been dealing with this week and last.

It concerns smoking in restaurants. As you know from my debate last week, the bill that we discussed at that time and enacted did not address this issue of smoking in restaurants. It said basically that this will be covered by existing smoking laws and if we choose to amend those, we can do that at this time.

The bill before you, L.D. 654, does in fact change the existing smoking in restaurants rules. It does so by banning smoking in restaurants. This bill received a strong endorsement of the majority of the Human Resources Committee. It was a 9 to 4 bipartisan vote of the committee. It was also supported by a large number of proponents, including the Maine Office of Substance Abuse, the Public Health Association, the Bureau of Health in the Department of Human Services, the Coalition on Smoking on Health, the Maine Innkeepers Association has since supported it in its amended form and various restaurants. Although the Restaurant Association opposed the initial bill before the committee, I can tell you from being on the committee two years ago, it was a totally different situation than at that time where we had very strong opposition from restaurants. This year a great deal has changed and, as a matter of fact, we had a number of restaurants come to the committee saying that they want this bill to be enacted.

What is so different today? First of all, we have the EPA report and I will not bore you with the details of that report because you have heard it already. However, it does state that secondhand smoke is a Class A carcinogen.

Secondly, the restaurants have found that the existing law simply doesn't work. It doesn't work for the restaurants and it doesn't work for the public. The problem is that the smoking areas, particularly in small restaurants where you can't have an enclosed area that separates out that smoking part from the non-smoking part, simply seeps into the rest of the restaurant basically affecting everybody. A lot of the smaller restaurants have wanted to ban smoking but they have felt that they would be at a economic disadvantage if they were to do so.

I wanted to read from a couple of letters that we did get from restaurants talking about this issue because I think it was very surprising to me that we actually did get a fair number of restaurants supporting us. One letter came from the Harborside Restaurant, which is in Boothbay Harbor. They said, "It has proven extremely difficult for us to segregate smokers and non-smokers as our establishment is small with tables close together. I feel that secondhand smoke is unpleasant and

unhealthy and that it is not fair to subject non-smokers to it. I would urge the legislature to pass a law which prohibits smoking in restaurants."

A second letter came from the Roma Restaurant in Portland. It said, "Currently, I have 36 tables in six separate diningrooms of which I have a total of four tables in one diningroom for smokers. Many days for lunch and dinner, we have no patrons who request a smoking diningroom. Some of my wait staff, who are non-smokers, do express discomfort working in a smoking diningroom. Not only is the smoke hazardous to my employees, it also greatly increases the overall dirtiness of the walls in our smoking diningroom requiring more frequent washing. I am strongly in favor of banning smoking in all restaurants, excluding bars and lounges."

Finally, a third letter came from Joyce's Lobster House in Machias and they raised several issues, one is the health issue, secondhand smoke for customers, concerns that they might be sued as a result of health impact on employees and customers, possible productivity loss for employees who take too many cigarette breaks and are affected by cigarette smoke and sanitation problems.

The amendment that the committee endorsed does make an exception for lounges and bars. We have discussed that with the previous debate and the feeling was that we were going to do the best we could to level the playing field but that lounges and bars are not in fact restaurants and in the committee definition they are defined as a place that derives more than 50 percent of its revenue from alcohol sales and entertainment fees. Obviously, that is not a restaurant. Restaurants are all treated the same.

The other exception is that if a restaurant hires out a room for private parties, that they don't have to ban smoking from that private party if the private party would like to have smoking. This is consistent with non-restaurants, such as the Elks Lodges and such but are allowed to do that under the other law so that creates a level playing field in terms of private parties. It does exempt out lounges and bars.

We think this is a fair law and a good one at this time. The facts have changed as to the impact of cigarette smoke on customers of restaurants. Many restaurants did support this, we know that many restaurants also are not in favor of it but, on balance, the majority of the committee felt that this was a step forward and a positive one at that.

We would urge that you support the Majority "Ought to Pass" Report as amended.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: Just so you won't be misled in thinking that restaurants across the state support this, a few may, I don't doubt that, but I have before me (I think you have on your desks) a letter from the Maine Restaurant Association and they oppose this legislation.

This is going too far, it is putting a hardship on restaurants, especially down in my area on the border area where we get a lot of Canadian customers and they just will not be told where they can smoke, they just won't come to those restaurants, that's all there is to it, they will stay over in Canada and have their meal. We will lose a lot of business on this.

Current law takes care of it, if you own a restaurant in this state and you don't want smoking

in your restaurant, you have every right under the law to say "no smoking." You can take that chance in the market but this smacks of Big Brother. One thing that really irritates me more as I get older is the term "experts say" — well, experts say one thing one day and then they turn around and reverse themselves the next day. I don't accept that at all. This is Big Brother — if you own a restaurant and you don't want smoking, you don't have to have smoking. If you are a non-smoker and you don't want to go to a restaurant that allows it, then you can go to one that doesn't have it. There are many now that are starting to have non-smoking. Fine. Talk about a choice bill, I will tell you what, I was pro-choice and I am pro-choice on this one too. This is just going too far. It is mandating to a point where we are trying to reach some goal of health and we are not going to get it. We are not going to make it and this will not do it.

I urge you to please defeat this ill-thought out legislation.

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

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I think it is important to address the choice of some people who have not been brought into this discussion at this point. There are 35,000 restaurant employees in the State of Maine, many of them are young and many of them could be pregnant. It is estimated that the most heavily exposed restaurant workers inhale the equivalent of actively smoking a pack and a half to two packs a day of cigarettes.

Some of the testimony that we heard was about a man in California, a 54 year old man, non-smoker without a family history of heart disease and a vegetarian who had had a heart attack. He was openly awarded a large financial settlement as a result of having to work for nearly 5 years in a restaurant where smoking was permitted. The basis of this settlement was the contribution of his workplace associated to ETS and to his heart condition. Of course, he did not represent the potentially most population of employees, pregnant women. So yes, those of us who do not smoke may choose not to frequent places which allow smoking but those people who are stuck with what few jobs there are in Maine these days may not have that same choice and I think we need to consider them as well.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: Just bear with me for a few minutes, please. My good colleague from Portland made the comment that "what few jobs are left", I agree with you, there are going to be less jobs.

I think it is time that we, the so-called legislators, let the people who own the businesses run the businesses. They pay the property tax, they collect our sales tax and send it to Augusta, and God forbid if we should be late, then we pay a penalty. I say this, let the man who owns the business, he knows best. If he has customers that are telling him that they do not like the smoke, then it is up to him to decide that they shouldn't smoke. If he wants to smoke, he should have that right to allow his patrons to smoke.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: I would like to discuss the jobs issue, I think everybody who is worth their salt ought to be concerned about jobs. Looking at the history of smoking legislation back to 1986, there was a bill introduced then dealing with smoking in retail stores over 4,000 square feet. The same arguments were presented then. But a little bit different, after meeting with a lot of the retailers across the state, I found out that they wanted non-smoking in their stores because of the cost and the health consideration of their employees. The real key was, is it going to take jobs away, is it going to cost money? Clearly, that should be their prime concern as businessmen and it didn't, it saved millions across the state because the level playing field was created in the retail market across the State of Maine that actually enhanced business in the retail operations.

We talk about pro-choice and rights, it brings to mind the public hearing that we had and this young lady with Cystic Fibrosis who in the young 18 years of her life was never able to go into the mainstream of public society and go out to dinner with her friends because the constant fear that if she were exposed to cigarette secondhand smoke that it would trigger a reaction that would send her back into the hospital. Here is a young lady that carried oxygen with her that was inserted into her chest cavity just so she can breathe and move about. When we talk pro-choice and rights, that young lady's rights to breathe fresh air in public places oversees anybody's right to pollute the air around her. So, let's deal with the health issues the way they are and clearly we know that secondhand cigarette smoke is now considered a Class A carcinogen.

How outraged would we be if people ran around spraying benzene over all of us? How outraged would we be if they were spraying that on our children? Let's get to the focus of the real issue here.

I have talked to a lot of restaurants across the state and they have called me with their concerns. I have discussed with them what I just discussed with you and they want this legislation, the ones that I have talked to but some do not. The ones that do not have concerns about losing customers and that is valid.

Let me talk to you about Randy Carsi, who owns the Miss Portland Diner in Portland. If there ever was a Blue Collar Diner in Maine, it is probably it. It is Cheers of the fast food establishments of the old guard. He banned smoking in his restaurant voluntarily because he had a deep concern of the health of his young workers in the establishment, especially the young ladies, the ones that were pregnant which secondhand smoke can definitely hamper a pregnancy. He found out that his business stayed flat or increased. I asked Mr. Carsi, "How do you know that the smokers are not coming anymore?" He said, "Well, I don't see any decrease in the smokers, they still keep coming." I said, "How do you know?" He said, "Well, I empty two five gallon containers daily outside my restaurant that are half full of cigarette butts so clearly somebody is putting those in there and people are still coming." He still has a good product and they will still come.

To get back to an issue that probably hasn't been debated here but we should all be involved in the cost of the health care reform, it affects everybody here, it affects our budget, it affects everything we

do. This is one of the keys to that complex formula and that is to deal with health care of those who don't smoke. Why shouldn't we try to help these people? They have a right to go to these places. We have supported the American's With Disabilities Act, the handicapped people that want to get into the mainstream. People have a mindset that those are people with wheelchairs and need a ramp, they are not, these asthmatic children, these are people with Cystic Fibrosis, these are people that have an allergy to this sort of thing, these are people that have, for one reason or another, ill-effects to secondhand smoke. Sure, they can get in there but they can't breathe — come on, let's get with the program here.

As far as people coming into the state, staying in Canada because they can't smoke, well, they can smoke, they can come into our restaurants in the State of Maine that have lounges and bars in the restaurants and we have already made the exception for those people and they can have their cigarette in there. We made that exception to accommodate those people, that we were concerned that, if you want to take your family out for a meal, which everyone should have the right to do, they should have a right to be guaranteed that they can be in a smoke-free environment when they go out.

Our society has dealt with this issue over the last ten years in being very progressive and Maine has been like that. This bill has already passed in the State of Vermont where you cannot smoke in restaurants. They have the same amendment to their bill dealing with lounges. So, we must think of those that have the primeval right for fresh air and that supersedes anybody's right to pollute that. So, if you keep that in mind, I would surely hope that you would vote for the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: It is so nice that others here want to regulate the industry that I am part of and that is the hospitality industry. I am an owner of a restaurant, Class A restaurant, and this does not give an equal playing field for those that may think so.

What this bill does is it assumes that a tavern does not serve food. It assumes that lounges don't serve food, it assumes, as the Representative from Gorham states, that they have done this in Vermont — our laws are different than those in Vermont. Under our lounge license, you must serve food from the time you open to the time you close. It does not have to be a sit-down restaurant, you can serve sandwiches. In order to be a Class A restaurant under our licenses, you must serve food from the time you open with three meals. I said earlier that a tavern may serve food. This bill will create an uneven playing field.

If you look at Vallee's Restaurant, they do have a lounge in that restaurant, but that is all encompassed under one license, a Class A restaurant. They don't keep separate books, that's a Class A restaurant. I, myself, have a Class A restaurant, I do have entertainment, I do serve food from the time I open to the time I close. Two streets over is a motel that has a lounge, serves no food, just the lounge. They will be allowed to smoke in that

establishment, in my establishment they cannot smoke, that is not a level playing field.

I think the good Representative from South Portland, Representative DiPietro, put it plain and simple, those of us that are in this industry, and we all enjoy that license plate that says "Vacationland", we can regulate ourselves now. For those of us that do not want to have smoking in any establishment, whether it be a lounge, a tavern or Class A restaurant, you can put a sign up and say "No Smoking!" Nothing prohibits you from doing that today and I would only urge you to stay out of our business. We in the hospitality industry understand that we like to accommodate people and when people come in and say they want a non-smoking area, if we don't have enough space, we will create that space. We are used to accommodating people so I would only hope that you would vote against the pending motion.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to vote against the pending motion on the floor. You have heard the arguments for and against. It certainly is up to the businessman to set the rules and regulations or policies of his own establishment. It is certainly not the business of the legislature to start saying we don't like the playing field you've got so we are going to change it so everybody is going to abide by our playing field. We don't pay their bills and we certainly shouldn't be trying to run their business.

This bill also, because of the lounge or tavern Part C in this bill, means that places like Ardito's, Margaritas, the Roseland, the Senator, the Sand Dollar, Slate's — they will not be able to serve — they will either have to go "No Smoking" or they will have to build a wall and close off the lounge or the bar. I don't believe, ladies and gentlemen, that it is within our purview that we must regulate that much, we tell them how to keep it clean, we tell them to have a rest room, so many seats within a restaurant, we almost tell them what they can serve on the plate. I do believe that if they feel that their business will stand "No Smoking" they can make that decision.

I urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I rise in opposition to this legislation. In my area, the town of Rumford, Mexico adjoining, there are several small restaurants. We have lost Bass Shoe Company, we have lost Wood Novelty Factory, we have lost Diamond International, several hundred jobs in our area. If this legislation passes, we are going to lose a lot more job because those restaurants will have to close.

Not only should you be concerned about the jobs, you should also be concerned about the sales tax that won't be collected, the income taxes that won't be sent to Augusta because the restaurants won't be doing business or the people won't be working for them. My telephone calls have been 10 to 1 against this legislation.

I am a non-smoker, have been a non-smoker all my life and many of the calls that I received came from non-smokers, I urge you to oppose this legislation.

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

Representative TREAT: Mr. Speaker, Men and Women

of the House: I just wanted to clarify what the bill does and does not do so that you can at least make up your own mind based on how it really should be interpreted.

If a restaurant has a bar in the restaurant, they may allow smoking in that bar as long as it meets the definition which is in our amendment. That means that 50 percent or more of the revenues of that part of the restaurant must be derived from alcohol or entertainment, not food. I suspect that most bars, such as the one in Representative Kerr's restaurant, would meet that definition. There is an added requirement that it would have to be in an enclosed room with a door that actually closes. That has been the whole problem now where we have smoking areas which are no in an enclosed area and are not set apart.

We understand that there are going to be restaurants that have bars now, that the bars are set out in the middle of the room, it may not be possible to economically reconstruct that restaurant to deal with our problem, we understand that. There will be some consequences for this, there may be economic consequences initially but we believe that ultimately this is not going to affect restaurants in general. You have only to look at some of the experiences that we have had already in dealing with, let's say, banning smoking altogether, on airlines. It was considered a totally radical proposal at the time, everyone claimed that people would not fly on airlines in the event that they couldn't smoke, they had to be there x-number of hours etcetera and yet now it is something that is routine, people expect it, the outcry has disappeared.

Going into a restaurant, if you have to go outside for a quick smoke or smoke right ahead of time and then smoke afterwards, is not such a burden when we are dealing with the public health of the 75 percent of the population that does not smoke and does not want to be exposed against their will of a Class A carcinogen. The fact is that many people cannot go to the restaurant of their choice right now because those restaurants do allow smoking and they simply don't have a choice in that matter.

I suggest that you do vote for the "Ought to Pass" Report and when the vote is taken, I would request the yeas and nays.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I guess that I, too, would hope that you would not support this motion on the floor.

As you know, Maine still has one common boundary with other states, the state does happen to be the State of New Hampshire where their laws are a lot less lax than ours. Therefore, you talk about an equal playing field — those little restaurants up and down the border of the Maine and New Hampshire border will be on a much disadvantage playing field. You have taken most of our business down there and our economic base away from us with taxes and such things as that, please don't take away our little restaurant businesses with this regulation.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Heeschen.

Representative HEESCHEN: Mr. Speaker, Ladies and Gentlemen of the House: It has been stated here that the existing law is working perfectly fine and this is a useless piece of legislation. I think the mere

fact that this bill is here before us is ample demonstration to the fact that the existing law is not working. It is very rare that we ever get a piece of legislation at the first instance of something being a problem, it usually takes a long — to paraphrase the Declaration of Independence — a long train of abuses.

It has been known for years that secondhand smoke is a problem. It has also been known that many people are excluded from even going to restaurants because they can't find any smoke-free air. Too many restaurants think it is just adequate that there is a sign saying "No Smoking in this Area" but that is absolutely no guarantee of smoke-free air in that area.

In the past and even this year, I have introduced legislation that in fact recognizes the needs of some people to indulge in a bit of nicotine along with their caffeine and sucrose in the morning for instance. These bills would have, I believe, provided for smokers for their considerations through proper and wise design of ventilation systems. Unfortunately, the restaurants said too often that this is too hard for us, too costly for us, and continued to pretend that a mere sign or policy can do the trick. I think that it is this long train of denial that has led us to this bill and I do urge you to support the "Ought to Pass" Report.

I think there have been ample opportunities to address the problem before, restaurants have chosen to ignore them, this is the result.

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

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: I have smoked in the past and it has been now two days since I haven't smoked (got the old patch right here) and if I happen to get through this closing days of the legislature without smoking, I will expect a rose from all of you.

I have to take issue with the good Representative from Gorham, Representative Hillock, I have a constituent in my district, Mr. Richard Leeman, he is President of the Maine Restaurant Association, and I recently received a phone call from Dick and he simply stated to me — he said, "Look Pete, I don't allow smoking in my restaurant, it is a beautiful restaurant on the South Portland side of the Portland waterfront. We think that is best for our business but as President of the Maine Restaurant Association, we want to be able to police our own business. We don't want the legislature micromanaging our business."

I can agree with all the legislators in the House and we all know that smoking is not a good thing, I am trying my hardest to stop. It is not a good thing and I don't think there is anyone here in the House who would say that it is a good thing but my reason for standing up today is simply to defend the President of the Maine Restaurant Association, a constituent of mine, who says "Let us take care of our own business, don't micromanage it."

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Mr. Speaker, Ladies and Gentlemen of the House: I guess I should start off by apologizing for rising so often today but I'm not going to.

I wanted to take issue, first of all, with what a

good friend of mine from Gorham, Representative Hillock, said and that is about the right of someone to go to a restaurant. I don't think anyone has the right to go into a restaurant or has the right — it is a business and if you choose to go in there, that's your choice. Now that's about as far as I will disagree with him so I don't mislead the opponents of this bill because beyond that what we have is — you do have the right to breathe and since smoking has been declared a Class A carcinogen, that means it is lethal to everyone around someone who smokes, it is no longer a choice of the people walking in or out of a restaurant, it is a matter of life or death. I don't think it is fair to put other people at risk when they are out attending functions, going places, you are threatening the health, as we heard from Representative Plowman from Hampden yesterday of children. Before this was a Class A carcinogen, I would have thought that this was a choice if a representative from anywhere decided they wanted to smoke, they were risking their own health but when you start killing the people around you with your habits, that's when it is no longer your choice, it is a matter of society's choice. I think it is in society's best interest that we vote to pass this bill.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: If people review what I just said earlier about the Maine Restaurant Association, clearly they did not endorse this bill, I talked to Dick Leeman, owner of the Channel Crossing Restaurant in South Portland and he personally thought it was a good idea because he is very health conscious of his employees. He could not speak for the restaurant association itself because they had not tabulated the concerns of all its members. Only the Maine Innkeepers Association, as I repeated before, has endorsed this bill.

Again, let's look at the numbers here, 75 percent of the people in the State of Maine do not smoke. They have got to eat somewhere and it is rare that we allow 25 percent of a population to dictate the health and social habits of the remaining 75 percent so we should look at that and clearly understand how serious this health danger is to all those that are involved.

Children do not have a say here, they do not have a vote, but they breathe the same air as we do and we should allow them the opportunity to breathe as fresh air as possible.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to be as simple as possible with this bill. I think we all have to realize that if we are looking out for children, children accompanied by a parent are allowed to go into a lounge or tavern. They are allowed to do that right now under our laws.

What this bill does is it creates a competitive disadvantage between the people that are in the hospitality industry. The bill does that and, again, let the establishments that want to have smoking have it and for those that don't, let them have the opportunity to put up the sign.

The law is fine the way it is today. You are not going to be able to regulate this law under Section

2c where they have a definition of tavern and lounge. It is not consistent with the Maine liquor laws so, again, I would urge you to vote against the pending motion.

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 Chair recognizes the Representative from South Portland, Representative Cloutier.

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: Just briefly, I just want to make it very clear that Mr. Leeman from the Channel Crossing Restaurant in South Portland, Dick Leeman, a very good friend, specifically told me (and this is in reference to the good Representative from Gorham) that "we do not want the State Legislature to micromanage our business, we want the business to police itself." I want to make that very, very clear. I feel like I have been challenged on this and I have to stand to make sure that my character and integrity remain unimpugned.

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 Brunswick, Representative Rydell.

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

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. 125

YEA - Adams, Ault, Barth, Beam, Bennett, Bowers, Brennan, Bruno, Cameron, Chase, Dexter, Donnelly, Driscoll, Faircloth, Farnsworth, Fitzpatrick, Heeschen, Hillock, Hoglund, Holt, Johnson, Ketterer, Kutasi, Lindahl, Lipman, Look, Lord, Marsh, Melendy, Mitchell, J.; Oliver, Pendexter, Pinette, Plowman, Richardson, Robichaud, Rowe, Simonds, Spear, Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Whitcomb.

NAY - Ahearne, Aikman, Aliberti, Anderson, Birney, Carleton, Caron, Carroll, Cashman, Chonko, Clark, Clement, Cloutier, Clukey, Coles, Cote, Cross, Daggett, DiPietro, Dore, Erwin, Farnum, Farren, Foss, Gamache, Gean, Gould, R. A.; Gray, Greenlaw, Gwadosky, Hale, Hatch, Hichborn, Hussey, Jacques, Jalbert, Joseph, Joy, Kerr, Kneeland, Kontos, Libby Jack, Libby James, MacBride, Marshall, Michael, Michaud, Mitchell, E.; Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Ott, Paradis, P.; Pendleton, Pineau, Plourde, Poulin, Pouliot, Rand, Reed, G.; Reed, W.; Ricker, Rotondi, Simoneau, Skoglund, Small, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Taylor, Thompson, Townsend,

G.; True, Tufts, Winn, Young, Zirkilton.

ABSENT - Bailey, H.; Bailey, R.; Birney, Campbell, Carr, Cathcart, Coffman, Constantine, Dutremble, L.; Heino, Kilkelly, Larrivee, Lemke, Lemont, Martin, H.; Morrison, Pfeiffer, Ruhlin, Saxl, Vigue, The Speaker.

PAIRED - St. Onge (Nay)/Rydell (Yes).

Yes, 46; No, 83; Absent, 20; Paired, 2; Excused, 0.

46 having voted in the affirmative and 83 in the negative with 20 being absent and 2 having paired, the Majority "Ought to Pass" Report was not accepted.

Subsequently, the Minority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

TABLED AND TODAY ASSIGNED

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

Bill "An Act to Enhance Voters' Rights in Budget Approval of School Districts" (EMERGENCY) (S.P. 252) (L.D. 771) (C. "A" S-163)

TABLED - May 21, 1993 by Representative CARROLL of Gray.

PENDING - Passage to be Engrossed.

On motion of Representative Carroll of Gray, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-163) was adopted.

The same Representative offered House Amendment "A" (H-407) to Committee Amendment "A" (S-163) and moved its adoption.

House Amendment "A" (H-407) to Committee Amendment "A" (S-163) was read by the Clerk and adopted.

Representative Chonko of Topsham offered House Amendment "B" (H-416) to Committee Amendment "A" (S-163) and moved its adoption.

House Amendment "B" (H-416) to Committee Amendment "A" (S-163) was read by the Clerk and adopted.

Committee Amendment "A" (S-163) as amended by House Amendment "A" (H-407) and "B" (H-416) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (S-163) as amended by House Amendment "A" (H-407) and "B" (H-416) thereto in non-concurrence and sent up for concurrence.

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

An Act Related to Mortgage Companies (S.P. 177) (L.D. 591) (C. "A" S-121)

TABLED - May 21, 1993 by Representative PARADIS of Augusta.

PENDING - Passage to be Enacted.

On motion of Representative Paradis of Augusta, retabled pending passage to be enacted and later today assigned.