

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

of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 125 voted in favor of same and 9 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: An Act to Protect Maine Citizens From the Effects of Environmental Tobacco Smoke (H.P. 666) (L.D. 904) (S. "B" S-232 to C. "A" H-358) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

Representative HALE: Mr. Speaker, Men and Women of the House: Before we pass this piece of legislation, I would like to remind you of the impact on business. The impact has been removed by some of the amendments but we are affecting bowling alleys and pool halls, but above all, we are affecting AA and Al-Anon meetings, laundromats, beauty parlors and barber shops to name but a few. Remember, these are businesses where the people are capable of running their own business but evidently through legislation we do not feel that they are capable of making the "right" business decisions to run those businesses, even though they may have been carrying on for years.

I ask you to give it a second thought before we pass 904.

Mr. Speaker, I ask for a roll call.

The SPEAKER: The Chair recognizes the Representative from Clinton, Representative Clement.

Representative CLEMENT: Mr. Speaker, Ladies and Gentlemen of the House: I have gotten a lot of phone calls from businesses, from bowling alleys that don't have bar in the bowling alley, from radio controlled racetracks that are inside. What is going to happen if this bill passes is they are going to move to an outside track in the summertime and it is going to put this gentleman out of business. There is a concern about the bowling alleys in my area, I am a member of a bowling team and I talked with him, he doesn't smoke, his wife doesn't smoke, he's got ventilation that takes care of the smoke in the building and he says that if this bill is passed, the people will go to a bowling alley that has a bar. I mean, this is not a fair piece of legislation for the small businesses in my district.

I am concerned about this being a fair bill. It is not a fair bill and I move that this bill and all its accompanying papers be indefinitely postponed.

I am real concerned about this. The radio controlled sport is something that is relatively new in this state, they have them in Portland, they have them in Winslow and the owners of these businesses wonder why we pass laws that put them out of work. They can put a sign on the door if they choose to have non-smoking areas or a non-smoking facility, it is up to them, so let's leave it up to them. Let's not hurt small business more than we have already.

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

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: The buzz phrase seems to be "a level playing field," let everybody be on the same level. This bill does exactly that, this bill does not discriminate against small businesses, large

businesses, bowling alleys, pool/billiard halls, whatever. This would encompass everybody so one restaurant would not be at a disadvantage versus another, they would both be operating under the same policy.

Quite ironically, and Representative Simonds and I have chatted about this briefly, I am very excited because I introduced this very legislation 8 years ago. I don't know if I was before my time or if I was a little late in bringing the bill before us but I think it is extremely appropriate that we do have such a bill in front of us and a bill that will actually (and it has been proven many, many times) improve the health and the costs related to health prevention all the way through.

I would urge you to vote against this motion which is on the floor and I think we can all do something positive for the people of Maine.

The SPEAKER: The Chair recognizes the Representative from Clinton, Representative Clement.

Representative CLEMENT: Mr. Speaker, I would like to withdraw my motion to indefinitely postpone the bill and its papers.

I would like to speak on the issue though.

Mr. Speaker, Ladies and Gentlemen of the House: This is an important issue to small businesses in my district, as I mentioned earlier. I feel, being a first time legislator, I was kind of hasty on making that motion and I am going to vote against this bill. It is just not a fair piece of legislation to all the businesses in the State of Maine and it is going to hurt the small businesses in the State of Maine.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I want to encourage you to stick by your previous votes on this bill. It is a good bill. This House has defeated every other bill dealing with smoking this session. This is the one bill that is out there and it is a very good bill.

What it does is it says that public spaces should be non-smoking unless there is an enclosed smoking area set aside for smoking.

We already had a lot of testimony, even from Representatives here on the floor, about their experiences trying to take their children, whether to a bowling alley, Civic Center, the Malls, children with asthma — that's just what you see right now in terms of the effects of tobacco smoke. What you don't see is the fact that tobacco smoking has been classified as a Class A carcinogen which puts it in the same category as coke oven emissions, as benzene, as other highly toxic chemicals.

This bill is a first step, there are some exemptions in it, they are exemptions that were put in partly to appease persons who are opposed to this bill, for example, smokeshops. That seems to be a sensible thing to do but, in essence, the broad impact of the bill does treat different businesses the same. It gets rid of the difference between small business and large, treating all the same. Right now, large businesses must ban smoking, small businesses do not. It treats all small businesses the same, there are very few exceptions in this. Restaurants are treated completely separate under the other legislation as you know.

I hope that you will stick by your vote, it was a good vote, please vote in favor of enactment of this bill so we can go on to join Vermont and a number of

other states in forward looking, healthful legislation.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you to please oppose the enactment of this bill. I agree with Representative Clement that this is not a good piece of legislation.

What it does is it specifically selects certain businesses that are allowed to continue certain acts of smoking and others it prevents them from smoking so we are not talking about a level playing field. If you want to say everybody is going to stop smoking, fine, but this is not going to do that.

This particular business that Representative Clement referred to is in my district and I would ask you, please, to oppose the enactment of this piece of legislation.

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 Cape Elizabeth, Representative Simonds.

Representative SIMONDS: Mr. Speaker, Ladies and Gentlemen of the House: I do want to comment briefly on the bill with the questions that have been raised. There is a distinction between the groups of places listed in the yellow handout which you have seen and which was distributed by the Representative from Sanford. Those in the first category clearly are those where one does not expect to find, generally speaking, families and kids. Those in the second category are those where one is more apt to find kids and that is what this bill is aimed at, a public health measure aimed at protecting children.

AA and A1-Anon may be private, some may be private, some may be public, but I think most are private and, therefore, not covered by the Act.

Finally, on the question of fairness, given the experience that we have had with the businesses over 4,000 square feet, it has been largely a self-enforcing law. We have made great progress there, we expect the same thing to happen with the businesses under 4,000 square feet and I think this introduces an element of real fairness between all businesses. On the question of fairness, it is fair for children who are vulnerable to smoke and the 85,000 people in the State of Maine who have lung problems and can't enter the public places.

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

ROLL CALL NO. 154

YEA - Adams, Ault, Bailey, R.; Barth, Beam, Bennett, Bowers, Brennan, Bruno, Carleton, Carroll, Cathcart, Chase, Coles, Constantine, Dexter, Donnelly, Driscoll, Faircloth, Farnsworth, Fitzpatrick, Foss, Gwadosky, Heeschen, Heino, Hoglund, Holt, Johnson, Ketterer, Kontos, Larrivee, Lemke, Lemont, Lindahl, Lipman, Lord, MacBride,

Marsh, Melendy, Mitchell, E.; Morrison, Nadeau, Norton, Oliver, Ott, Paradis, P.; Pendexter, Pfeiffer, Pinette, Plowman, Rand, Richardson, Rowe, Ruhlin, Rydell, Small, Spear, Stevens, K.; Sullivan, Taylor, Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Whitcomb, Zirkilton.

NAY - Ahearne, Aikman, Aliberti, Anderson, Bailey, H.; Birney, Cameron, Carr, Cashman, Chonko, Clark, Clement, Cloutier, Clukey, Cote, Cross, Daggett, DiPietro, Dore, Dutremble, L.; Erwin, Farnum, Farren, Gamache, Gean, Gould, R. A.; Gray, Greenlaw, Hale, Hatch, Hichborn, Hussey, Jacques, Joseph, Joy, Kerr, Kilkelly, Kneeland, Kutasi, Libby, Jack, Libby James, Look, Marshall, Martin, H.; Michael, Murphy, Nash, Nickerson, O'Gara, Pendleton, Pineau, Plourde, Poulin, Pouliot, Reed, G.; Reed, W.; Ricker, Robichaud, Rotondi, Saint Onge, Saxl, Simonds, Simoneau, Skoglund, Stevens, A.; Strout, Swazey, Tardy, Thompson, Townsend, G.; Tufts, Vigue, Winn, Young.

ABSENT - Campbell, Caron, Coffman, Hillock, Jalbert, Michaud, Mitchell, J.; True, The Speaker.

Yes, 68; No, 74; Absent, 9; Paired, 0; Excused, 0.

68 having voted in the affirmative and 74 in the negative with 9 being absent, L.D. 904 failed of enactment. Sent up for concurrence.

Representative Simonds of Cape Elizabeth moved that the House reconsider its action whereby L.D. 904 failed of enactment.

The same Representative moved that L.D. 904 be tabled one legislative day pending his motion that the House reconsider.

Representative Strout of Corinth requested a roll call vote on tabling.

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 Cape Elizabeth, Representative Simonds, that L.D. 904 be tabled for one legislative day. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 155

YEA - Adams, Aikman, Ault, Bailey, R.; Barth, Beam, Bennett, Birney, Bowers, Brennan, Bruno, Carleton, Carroll, Cashman, Cathcart, Chase, Cloutier, Coles, Constantine, Daggett, Dexter, Donnelly, Driscoll, Faircloth, Farnsworth, Fitzpatrick, Gean, Gould, R. A.; Gwadosky, Heeschen, Heino, Hichborn, Hoglund, Holt, Jacques, Johnson, Kerr, Ketterer, Kilkelly, Kontos, Kutasi, Larrivee, Lemke, Lemont, Lindahl, Lord, MacBride, Marsh, Melendy, Mitchell, E.; Morrison, Nadeau, Norton, Oliver, Ott, Paradis, P.; Pendexter, Pineau, Pinette, Plowman, Pouliot, Rand, Reed, G.; Richardson, Rowe, Ruhlin, Rydell, Saint Onge, Simonds, Simoneau, Small, Spear, Stevens, K.; Sullivan, Swazey, Taylor, Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Whitcomb, Zirkilton, The Speaker.

NAY - Ahearne, Anderson, Cameron, Carr, Chonko, Clark, Clement, Clukey, Cote, Cross, DiPietro, Dore,

Dutremble, L.; Erwin, Farnum, Farren, Foss, Gamache, Gray, Greenlaw, Hale, Hatch, Hussey, Joseph, Joy, Kneeland, Libby Jack, Libby James, Lipman, Look, Marshall, Martin, H.; Michael, Murphy, Nash, Nickerson, O'Gara, Pendleton, Plourde, Poulin, Reed, W.; Ricker, Robichaud, Rotondi, Saxl, Skoglund, Stevens, A.; Strout, Tardy, Thompson, Townsend, G.; Tufts, Vigue, Winn, Young.

ABSENT - Aliberti, Bailey, H.; Campbell, Caron, Coffman, Hillock, Jalbert, Michaud, Mitchell, J.; Pfeiffer, True.

Yes, 85; No, 55; Absent, 11; Paired, 0; Excused, 0.

85 having voted in the affirmative and 55 in the negative with 11 being absent, the motion to table did prevail.

Subsequently, the Bill was tabled pending the motion of Representative Simonds of Cape Elizabeth to reconsider whereby the Bill failed of passage to be enacted and specially assigned for Wednesday, June 2, 1993.

The Chair laid before the House the following matter: An Act to Allow the Sale of Surplus Lands from the State Nursery (S.P. 89) (L.D. 243) (C. "A" S-235) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Jacques of Waterville, the House reconsidered its action whereby L.D. 243 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-520) and moved its adoption.

House Amendment "A" (H-520) was read by the Clerk and adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (S-235) and House Amendment "A" (H-520) in non-concurrence and sent up for concurrence.

(Off Record Remarks)

On motion of Representative Hichborn of Howland,
Adjourned at 6:50 p.m. until Wednesday, June 2,
1993, at twelve o'clock noon.
