

# 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

**Non-Concurrent Matter**

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Popular Election of the Secretary of State (H.P. 965) (L.D. 1296) which was passed to be engrossed as amended by Committee Amendment "A" (H-434) and House Amendment "B" (H-475) in the House on June 8, 1993.

Came from the Senate with that Body having adhered to its former action whereby the the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-434) in non-concurrence.

On motion of Representative Joseph of Waterville, the House voted to Insist and ask for a Committee of Conference.

**Non-Concurrent Matter**

Bill "An Act to Modify Various Licensing Board Laws" (S.P. 490) (L.D. 1501) which was passed to be engrossed as amended by Committee Amendment "A" (S-252) as amended by Senate Amendments "A" (S-268), "C" (S-293) and "D" (S-305) thereto and Senate Amendment "A" (S-294) in the House on June 8, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-252) as amended by Senate Amendments "A" (S-268), "C" (S-293) and "D" (S-305) thereto and Senate Amendments "A" (S-294) and "B" (S-320) in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

Resolve, to Establish the Health and Social Services Transition Team to Develop the Governor's Restructuring Proposal to Combine the Departments of Human Services and Mental Health and Mental Retardation and the Office of Substance Abuse in a New Department of Health and Family Services (EMERGENCY) (H.P. 1112) (L.D. 1508) (Governor's Bill) which was passed to be engrossed as amended by Committee Amendment "A" (H-516) as amended by House Amendments "A" (H-600) and "B" (H-630) thereto in the House on June 8, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-516) as amended by House Amendment "A" (H-600) and Senate Amendment "B" (S-314) thereto in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

Bill "An Act to Amend the Motor Vehicle Emission Inspection Program" (H.P. 1005) (L.D. 1351) on which the House insisted on its former action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-537) as amended by House

Amendments "A" (H-580) and "B" (H-583) thereto in the House on June 8, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-537) as amended by House Amendment "B" (H-583) and Senate Amendments "A" (S-301) and "B" (S-318) thereto in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 8 was taken up out of order by unanimous consent:

**Committee of Conference**

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on: Bill "An Act to Amend the Laws Governing Vending Machine Sales of Cigarettes" (H.P. 1060) (L.D. 1428) have had the same under consideration and ask leave to report:

That the House recede from passage to be engrossed as amended by Committee Amendment "A" (H-430) and House Amendment "A" (H-427); indefinitely postpone Committee Amendment "A" (H-430); indefinitely postpone House Amendment "A" (H-427); read and adopt Conference Committee Amendment "A" (H-649) and pass the Bill to be engrossed as amended by Conference Committee Amendment "A" (H-649) in non-concurrence.

That the Senate recede and concur with the House.

(Signed) Representative ROWE of Portland and Representative CAMERON of Rumford - of the House.

Senator MARDEN of Kennebec, Senator CONLEY of Cumberland, and Senator BALDACCI of Penobscot - of the Senate.

Committee of Conference Report was read.

The SPEAKER: The Chair recognizes the Representative from Township #27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: It sounds to me after reading this that it does just exactly the opposite of what we want.....

The SPEAKER: The Chair would advise the Representative that he needs to make a motion first, there is no pending motion. There are only two motions to be made, accept the Committee of Conference Report or reject the Committee of Conference Report.

Representative BAILEY: Mr. Speaker, I would make the motion that we reject the Committee of Conference Report.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: If you haven't looked at the document, I would ask you too, it is filing no. H-649, the Committee of Conference Report. I disagree with the Representative that it does exactly the opposite of what we intended to do.

The intent of the original L.D. was to restrict access of cigarettes to individuals under the age of 18 years.

Let me tell you what this bill does as reported out of the Committee of Conference. There are only two changes to the statutes. First, it will restrict the vending of cigarettes from machines that vend only cigarettes.

Secondly, it require that a sign be affixed to the front of the machine that states that it is unlawful for a person under the age of 18 to purchase cigarettes in this state and it will give the statutory citation.

I think this is important, it is certainly not what I had intended with the original legislation — that was to restrict the placement of cigarette vending machines to locations where individuals under the age of 18 do not commonly go. What this bill does is it restrict the vending of cigarettes from machines that only vend cigarettes. Now, I don't know if you have seen, there are a few machines around and in the city of Portland we have them, they are candy machines. It is a regular candy machine, you will see them in motels, you will see them in other places, they have candy, potato chips and cigarettes and the cigarettes are placed right in the little place where candy bars normally go. You tell me how an individual who is the owner of the premises or an employee of the owner of the premises is able to tell when a kid walks up what the kid is buying. I don't think there is any way, that is the reason for that restriction. They are very few of these machines as I understand and I think that is important. I hope you would agree.

The second point is that it simply requires that a sign be placed on the front of the machine.

I understand we don't have the money to hire the enforcement personnel. I think this sign will have a deterrent effect. I don't know about you but when I see a sign that says it is against the law to do something that I am about to do, it causes me to think twice about doing it. I think this will have that effect. I hope you would agree. Those are the only two changes to the statutes that are in this particular amendment to L.D. 1428.

When you vote, I would ask that you vote against the pending motion to reject the Committee of Conference Report so we can go on and accept the Committee of Conference Report.

Mr. Speaker, I would ask for the yeas and nays.

The SPEAKER: The Chair recognizes the Representative from Township #27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I agree that that is what is intended with the bill but the wording of the bill, I think, would allow, as long as the machine was in where it was observed by an adult and had the warning sign, would allow children under the age of 18 to purchase cigarettes. That is the way I read the bill. That doesn't appear to be the intent.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I disagree with the Representative, I am looking at Paragraph 2 on the amendment — it says "it is unlawful for any person, firm or corporation to knowingly distribute or sell cigarettes from a vending machine to a person under the age of 18 years or from a vending machine except for a vending

machine with those restrictions."

I disagree with the Representative, I understand your saying that the exception might apply to the distribution or sale of cigarettes to individuals under the age of 18, I would like to put on the Record at this point that that is certainly not the intent. My intent was given to the Revisor of Statutes who drafted this for me, I think my intent was clear with them and certainly the intent behind this legislation is that it is prohibited to knowingly distribute or sell cigarettes from a vending machine to a person under the age of 18 years, number one.

Number two, it is prohibited for a person, firm or corporation to knowingly distribute or sell cigarettes from any vending machine except for a vending machine with the three restrictions that are listed. That is the intent of the legislation. I think it is clear but perhaps there is a disagreement.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, I rise to a point of parliamentary inquiry?

If, indeed, we had to vote against the motion to reject the Committee of Conference Report and adopt the Committee of Conference Report, is there a possibility to amend this Committee of Conference Report at a later date if there appears to be some concern about the discrepancy?

The SPEAKER: The Chair would answer in the negative. The Committee of Conference Report may not be amended.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Coffman.

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I just rise to relate an experience I had this weekend when I went out for breakfast with my children to a local hotel in the Orono area. I noticed, well actually, my children noticed that the candy machine had a whole row of cigarettes there so the kids could go up and buy candy or cigarettes, whichever they would like. That is my personal experience with this, I just wanted to share that with you for whatever it is worth.

Representative Rowe of Portland was granted permission to address the House a third time.

Representative ROWE: Mr. Speaker, Men and Women of the House: I apologize, I know that it is my third time up. If that is a concern you have, and I don't think it should be a concern, that the statute has any ambiguity to it but if it is, I would like to read to you from another statute which is current law, Title 22, section 1579. I won't read it, I will paraphrase it but I will read one sentence. "No person may knowingly sell, furnish or give away or offer to sell, furnish or give away cigarettes or any other tobacco product to any person under the age of 18 years." That is the law now. That is under section 1579 of Title 22. I think it is very clear.

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

Representative LARRIVEE: Mr. Speaker, a point of parliamentary inquiry?

Would a motion to have another Committee of Conference be in order?

The SPEAKER: The Chair would answer in the affirmative.

Representative LARRIVEE: I so move, Mr. Speaker.

The SPEAKER: The Chair would first need to

dispose of the pending motion, which is the motion to reject the Committee of Conference Report.

The next motion could then be to further insist and ask for an additional Committee of Conference.

Representative Bailey of Township #27 withdrew his motion to reject the Committee of Conference.

On motion of the same Representative, the House accepted the Committee of Conference Report.

Subsequently, the House voted to recede from passage to be engrossed as amended by Committee Amendment "A" (H-430) and House Amendment "A" (H-427).

Committee Amendment "A" (H-430) was indefinitely postponed.

House Amendment "A" (H-427) was indefinitely postponed.

Conference Committee Amendment "A" (H-649) was read and adopted and the Bill passed to be engrossed as amended by Conference Committee Amendment "A" (H-649) in non-concurrence and sent up for concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

The following items appearing on Supplement No. 9 were taken up out of order by unanimous consent:

**ENACTOR**

**Emergency Measure**

**Later Today Assigned**

An Act to Remove the Repeal Date from the Laws Governing Equitable Insurance Coverage for Mental Illness (H.P. 138) (L.D. 183) (C. "A" H-582 and H. "A" H-607)

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

On motion of Representative Gwadosky of Fairfield, tabled pending passage to be enacted and later today assigned.

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act Concerning Technical Changes to the Tax Laws (S.P. 182) (L.D. 596) (H. "B" H-641 to C. "A" S-277)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 107 voted in favor of the same and 4 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act Related to Lottery Machines (H.P. 159) (L.D. 211) (S. "A" S-190 and H. "A" H-639 to C. "A" H-319)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 105 voted in favor of the same and 7 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

**Emergency Mandate**

An Act Requiring Public Schools to Purchase Insurance through a Competitive Bidding Process (H.P. 1162) (L.D. 1560)

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

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Reed.

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

A question to any member of the Committee on Education — I noticed that this bill seems to specifically exempt from the bidding requirements the title implies Workers' Compensation, Disability and Health Insurance which we all know are expensive items and I wondered if someone could share with me the rationale for exempting those items?

The SPEAKER: The Representative from Falmouth, Representative Reed, has posed a question through the Chair to anyone from the Education Committee who may respond if they so desire.

The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: The Committee spent a great deal of time trying to find ways to save money for schools and one of those areas where we felt there was a possible savings was in the area of purchase of property and casualty liability insurance for buses and buildings. As a matter of fact, those of you who were in the body last term, and probably terms before that, remember efforts, in fact, they were bills proposed this time which would have four school units to buy their insurance from the state through the Risk Management Fund. Through a lot of research and work, we discovered, one, that that was not the most efficient and effective way to go for those particular purchases. Also, there were savings to be had if people had a specific competitive bidding process. As a matter of fact, one school superintendent told me, who did this without the legislation, that he found there were savings of up to 30 percent in his district. I do not pretend that that is going to be the case in every district but the very fact that they competitively bid should at least give savings that a local school can put in the school program.