

MAINE STATE LEGISLATURE

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House Legislative Record
of the
One Hundred and Eighteenth Legislature
of the
State of Maine

Volume I

First Regular Session

December 4, 1996 - March 27, 1997

First Special Session

March 27, 1997 - May 15, 1997

Jones SL, Jones SA, Kerr, Kontos, Labrecque, LaVerdiere, Lemaire, Lemont, Lindahl, MacDougall, Mack, Mailhot, Marvin, Mayo, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Ott, Paul, Pendleton, Perry, Poulin, Povich, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Sirois, Skoglund, Snowe-Mello, Stanley, Tessier, Thompson, Tobin, Treadwell, Tripp, True, Tuttle, Usher, Vigue, Watson, Winglass, Madam Speaker.

ABSENT - Bodwell, Bouffard, Farnsworth, Lemke, Meres, Richard, Spear, Underwood, Winn, Wright.

Yes, 53; No, 88; Absent, 10; Excused, 0.

53 having voted in the affirmative and 88 voted in the negative, with 10 being absent, the Bill failed of passage to be engrossed and was sent up for concurrence.

As Amended

Bill "An Act to Require the Purchaser of Tobacco Products to Produce Suitable Identification" (S.P. 133) (L.D. 412) (S. "A" S-157 to C. "A" S-132)

Was reported by the Committee on **Bills in the Second Reading** and read the second time.

On motion of Representative MITCHELL of Portland, was set aside.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (S-132) was adopted.

On further motion of the same Representative, the House reconsidered its action whereby Senate Amendment "A" (S-157) to Committee Amendment "A" (S-132) was adopted.

The same Representative moved that Senate Amendment "A" (S-157) to Committee Amendment "A" (S-132) be indefinitely postponed.

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

Representative LOVETT: Madam Speaker, Ladies and Gentlemen of the House. This bill is a reasonable compromise and it is one that will provide more protection to ensure that our minors do not have an easy access to vending machines. While it does allow fraternal clubs, factories, breakrooms and taverns to keep cigarette vending machines for their customers. All vending machines must be placed where they can be supervised so that minors cannot access them. This amendment also recognizes the need to support the 10 small vending companies in Maine and their employees. These employees would be severely hurt if we were to ban the use of these machines. I have been told by one vending company in Scarborough that if we were to ban this, it would be forced to cut employee benefits in order for them to stay open. You may find these vending companies in the following areas: Scarborough, Auburn, Lewiston, Augusta, Waterville, three in Bangor and two in Aroostook County.

Again, the major concern is to keep minors from accessing the vending machines. I feel that we have adequately addressed that concern while protecting Maine jobs. I urge you to vote against the pending motion. Thank you.

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

Representative MITCHELL: Madam Speaker, Men and Women of the House. As you heard from my friend, Representative Lovett of Scarborough, this bill basically is about vending machines. Our committee has agreed to do a number of things that are already in the bill, including asking for identification before purchasing tobacco. We are taking steps towards making sure that children do not have access to tobacco. However, the amendment in front of us goes all the way. It is about the courage of our conviction because we are

talking a lot about saving our kids and protecting our children. This amendment allows us to really do something.

Maine has the highest youth smoking rate in the country. Ninety percent of current smokers become addicted before the age of 18. Twenty-three hundred Maine people die each year of smoking related illnesses. There is a link here to vending machines. This is from the FDA. It says, "Vending machines represent one of the major ways that children currently obtain cigarettes. Numerous studies and surveys show that significant percentages of young people are able to purchase cigarettes from vending machines, even in areas that have laws restricting the placement of those machines or requiring the use of locking devices." The 1994 surgeon general's report found that children and adolescents successfully purchase cigarettes from vending machines 88 percent of the time. Vending machines are most popular with the youngest smokers with 22 percent of 13 year olds who smoke purchasing cigarettes from them. These numbers are pretty clear. The least we can do here is protect our kids. Adults can get their cigarettes anywhere. I think the inconvenience of having to look beyond a vending machine is worth saving our kids. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative BROOKS: Madam Speaker, Ladies and Gentlemen of the House. My colleague from Portland is absolutely correct when you start talking about the concerns that all members of the Health and Human Services Committee have about smoking in general and smoking among children. What this amendment would do would absolutely ensure that anyone who is 18 years old who was in an area where there were vending machines would have to be accompanied by an adult. By the way, the federal regulations that are coming down, I believe, will become effective in August, will also deal with this issue, which states that vending machines can be placed in private places or private clubs where there are adults only or if there are people under 18, they are always accompanied by adults.

When the bill first came to the Health and Human Services Committee, I took the opportunity to go to a couple of private organizations and clubs in my district and asked them what kind of an impact it would have if we just absolutely banned them. They asked me to come back and voice the message to you, please do not do that. They do have them under supervision in these private clubs and that they would be willing to live with the rules and can live with the rules that no one under 18 would be in those organizations or clubs unless accompanied by an adult. The vending machine presents to them a couple of things. One is the convenience of the membership. The first thing they tried to do in some of these clubs was put a rack or some kind of display behind a counter where the cigarettes were available to anyone and you can imagine what happened there. There were losses that couldn't be accounted for. They went back to the vending machines.

The other thing that it presented to them was an opportunity to make a little bit of money, a nickel, a dime or a quarter out of the vending machine use for their flower fund or for whatever fund they use. For the convenience of their membership and also for this flower fund, they asked if we couldn't just leave the vending machines and comply with federal law and have them in private clubs where they would be, in fact, supervised. Really, what we are talking about here is an impact on small businesses. I have heard, as Representative Lovett said, in Bangor there are three vending machine companies. I have heard that that represents a fairly significant amount of their business and we may be talking about jobs here.

I see this as being inconsistent with federal law. I do not in the least see this as inconsistent with my concerns about the health care of young people because we are going to be using these vending machines. I hope that you will vote against the Indefinite Postponement of Senate Amendment "A" because Senate Amendment "A" provides just exactly what we said. By the way, Senate Amendment "A" will leave the bill intact with that one exception, vending machines. Thank you.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative ETNIER: Madam Speaker, Ladies and Gentlemen of the House. I urge you to support the Indefinite Postponement of Senate Amendment "A." I am not a member of the Health and Human Services Committee, but there are times that I wish I was. These smoking bills are going to be coming up for the next few days and will be some of the most important issues that we will face in the 118th Legislature, as far as I am concerned. It is time for us to do what, I think deep down inside, we all know is right. The Senate Amendment that we are asking you to Indefinitely Postpone, a lot of it is the same as the Majority Report out of this committee. There is one critical difference that is why it is no good. It is essentially the same as the Minority Report, it is the same, of the committee and it does little to change current law regarding vending machine locations, which is really what is in question here as referenced by the previous two speakers.

Current law is, at all times during the hours that vending machines are accessible must be located within the unobstructed line of sight and under the direct supervision of an adult. It does not apply to vending machines located in the area where minors are not allowed by law. What this amendment does is strike that last bit and say only that vending machines may be located only in areas in which minors are allowed only when accompanied by an adult. Essentially, it does little, if anything, to change current law. What is the reason for having an vending machine? There is no good reason for having vending machines. I can't understand why we need vending machines in our state. The good thing about the Majority Report of the committee, which we are asking you to go back to is that it takes the bold step of saying that there will be no cigarettes sold by vending machines in this state, given our current dismal record of youth smoking, can we really stand up here on the floor and discuss a handful of vending machine companies scattered around the state when we have the highest smoking rate among young children in the country. Are we going to compare that to four vending machine companies who are claiming that this is going to put them out of business? I sincerely doubt that. I ask you to strongly consider the health affects of having vending machines, which are easily accessible by members of the public and to support the Indefinite Postponement. Thank you very much.

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

Representative KANE: Madam Speaker, Ladies and Gentlemen of the House. As the previous speaker said, we will be making some major decisions regarding tobacco over the next few days. This is just the beginning, dealing with the vending machines. We are making a major decision about the future health of our children. The incidence of smoking among our young people in Maine has been mentioned several times. We are looking, not only at the health of the children, but we are looking at the economic health of the State of Maine in terms of the cost of health care. We know what tobacco addiction is costing our country today. We have seen it in the media and have become well educated to the health care costs of addiction to tobacco. The presence of vending machines is just another

piece in the positive reinforcement of getting young children hooked on tobacco. Unless we begin now to curtail this kind of behavior, we are laying out major future costs in health care debt on ourselves and on our children. I urge you to join in the Indefinite Postponement. Thank you.

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

Representative BRAGDON: Madam Speaker, Ladies and Gentlemen of the House. Few previous speakers mentioned the economic impact. This was a great concern to me so I called the three vending companies in Bangor. I would just like to articulate for you what sort of economic impact Indefinitely Postponing this amendment would have. For one vending machine company it would represent \$20,000 less in sales. For the second one, \$50,000. For the third one in Bangor, \$11,000. This is a total of \$81,000 in lost revenue to these vending machine companies. They still have the basic costs of repairmen going out and servicing these vending machines, but this is revenue that they cannot absorb. This represents laying off workers and stopping health care benefits to their employees.

The other thing I would like to point out is the industry trend. Ten years ago, five years ago, we all saw vending machines everywhere. That is not the case today. Primarily they are in locations only where minors can go while accompanied by an adult. There are some vending machines that are elsewhere. This bill would eliminate those. It takes a very responsible approach by saying that we recognize that vending machines are a temptation to minors, however, they are a convenience to adults. I dare say that we all appreciate our vending machines on the basement level, so we can buy a soda when the store is closed. I think adults in adult locations deserve the same convenience. Madam Speaker, I request the yeas and nays.

Representative BRAGDON of Bangor requested a roll call on the motion to indefinitely postpone Senate Amendment "A" (S-157) to Committee Amendment "A" (S-132).

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

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

Representative ROWE: Madam Speaker, Men and Women of the House. I rise today to support the pending motion to Indefinitely Postpone Senate Amendment "A." I disagree with the last speaker that this can be enforced. In the city I live in, we have many bars and if you go to the city and you look at where the vending machines are placed, they are placed right inside the doorway. Minors are not supposed to be in there, but they can easily access cigarettes through the vending machines. I believe this will still be allowable under this bill. It sounds good, but I am telling you, I believe there is going to be a problem. I put a bill in in the 116th to prohibit vending machines and all I heard was that we can't enforce it through the local police department. We have other things to do. If we really want to keep tobacco products away from children, we have to get serious. I just heard there is an \$80,000 economic impact. I ask you to think about the cost of treating pulmonary disease or lung cancer. I mean, \$80,000 is a drop in the bucket. We are talking about trying to save the health and the lives of Maine children and adults. If I thought this could be enforced, I might think about it. I just don't think it is going to work. I think we ought to be bold and make a statement and get on with it. Thank you very much.

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

Representative MITCHELL: Madam Speaker, Men and Women of the House. I am glad that we got to talk about cost a little bit. I want to talk about direct health care costs in Maine.

Smoking related expenditures for hospitalization, physician services, medication costs, nursing home costs and other professional services for the treatment of smoking attributable illness equals \$77 million in Maine. Indirect costs are loss income and productivity for individuals who are disabled by smoking related disease or injury, \$230 million in Maine. I think those are a little bit higher than the costs that we were talking about.

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

Representative QUINT: Madam Speaker, Ladies and Gentlemen of the House. I stand before you today to ask you to Indefinitely Postpone Amendment "A" and I want to tell you why. This is not about buying soda, chips or candy bars in vending machines on the first floor. It is simply about a choice. Do we choose between the convenience for adults to buy cigarettes or do we choose to make a bold step forward to limit access to cigarettes to youth?

The SPEAKER: The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative FULLER: Madam Speaker, Ladies and Gentlemen of the House. I, too, rise to support the motion to Indefinitely Postpone this bill. We clearly need to do something about reducing the rate at which our youth are smoking. I guess I have a comment about the figures that were given to us just a few minutes ago about the economic impact. My observation, as I have watched people service vending machines, is that they are refilling them with the product that they sell. I submit that even though they don't sell the products through the vending machines, they are still going to find some way of distributing that product to those outlets, not through a vending machine, but through direct sales where they can monitor who is buying those cigarettes. I would also urge that people who are in the business of vending machines, to put some other product in there besides cigarettes that is not going to kill our kids in their later years and cause a lot of additional costs.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone Senate Amendment "A" (S-157) to Committee Amendment "A" (S-132). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 184

YEA - Ahearn, Bagley, Baker CL, Baker JL, Belanger IG, Brennan, Bruno, Bull, Bumps, Bunker, Carleton, Chartrand, Colwell, Cowger, Cross, Davidson, Desmond, Driscoll, Dunlap, Etnier, Frechette, Fuller, Gagne, Gagnon, Gerry, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kontos, LaVerdiere, McElroy, McKee, Mitchell JE, Morgan, Muse, O'Neil, Paul, Pendleton, Pieh, Povich, Powers, Quint, Rines, Rowe, Samson, Sanborn, Saxl MV, Shiah, Sirois, Skoglund, Stevens, Tessier, Thompson, Townsend, Tripp, Usher, Volenik, Watson, Winglass, Madam Speaker.

NAY - Barth, Belanger DJ, Berry DP, Berry RL, Bragdon, Brooks, Cameron, Campbell, Chick, Chizmar, Cianchette, Clark, Clukey, Donnelly, Fisher, Fisk, Foster, Gieringer, Goodwin, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Labrecque, Lane, Layton, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey,

Murphy, Nass, Nickerson, O'Neal, Ott, Peavey, Perkins, Perry, Pinkham RG, Pinkham WD, Plowman, Savage, Saxl JW, Snowe-Mello, Stanley, Stedman, Taylor, Tobin, Treadwell, True, Tuttle, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winn, Winsor.

ABSENT - Bigl, Bodwell, Bolduc, Bouffard, Buck, Dexter, Dutremble, Farnsworth, Gamache, Mailhot, Meres, O'Brien, Poulin, Richard, Shannon, Spear, Underwood, Wright.

Yes, 64; No, 69; Absent, 18; Excused, 0.

64 having voted in the affirmative and 69 voted in the negative, with 18 being absent, Senate Amendment "A" (S-157) to Committee Amendment "A" (S-132) was not indefinitely postponed.

Subsequently, Senate Amendment "A" (S-157) to Committee Amendment "A" (S-132) was adopted.

Committee Amendment "A" (S-132) as amended by Senate Amendment "A" (S-157) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-132) as amended by Senate Amendment "A" (S-157) thereto in concurrence.

ENACTORS

Emergency Measure

An Act to Fund the Collective Bargaining Agreement for the Maine State Police Bargaining Unit (S.P. 640) (L.D. 1862) (Governor's Bill) (C. "A" S-195)

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. 122 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

On motion of Representative KONTOS of Windham, the following item was removed from the Tabled and Unassigned matters:

Expression of Legislative Sentiment in memory of Carl Ervin Cianchette (HLS 332)

TABLED - April 30, 1997 by Representative KONTOS of Windham.

PENDING - Adoption.

On further motion of the same Representative, tabled pending adoption and specially assigned for Wednesday, May 14, 1997.

On motion of Representative MUSE of South Portland, the House adjourned at 7:36 p.m., until 9:00 a.m., Wednesday, May 14, 1997.