

# MAINE STATE LEGISLATURE

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effort to accomplish? Do we want to continue to hold the position of being the number one state in this Nation for our legislation on regulating health services? So I do feel that health care is very important, and we have many Bills this Session, that we're working very diligently, to improve our state. I do feel that there is a concern for business. However, we're not addressing it at this time. Thank you.

The Chair ordered a Division. 26 Senators having voted in the affirmative and 6 Senators having voted in the negative, the motion by Senator PINGREE of Knox to **ACCEPT** the Majority **OUGHT TO PASS** Report, in concurrence, **PREVAILED**.

**READ ONCE.**

**TOMORROW ASSIGNED FOR SECOND READING.**

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

**SENATE REPORTS** - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Prohibit Sale of Tobacco from Vending Machines"

S.P. 14 L.D. 10

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass** (4 members)

Tabled - March 24, 1999, by Senator **PINGREE** of Knox.

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS** Report.

(In Senate, March 24, 1999, Reports **READ**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Mitchell.

Senator **MITCHELL:** Thank you Mr. President. I would ask you to join me and members of the Senate to vote against this Bill, so that we can then vote for the Majority Report. The reason being that in our Committee, as you can see from the vote in Committee, the majority of the people were very understanding to the fact that vending machines actually keep children from stealing cigarettes off counters. They have to have money to put them into the machines. The current law already specifies that vending machines must be in a supervised location and they are posted that minors are restricted from purchasing cigarettes from those vending machines.

We had testimony from owners of vending machine companies and from many small businesses that would be greatly hurt by us putting this Bill through and eliminating the sale of cigarettes through vending machines.

It's an effort for us to micro manage business and for us to put our hands into the decision making of businesses when they elect to have vending machines. It's probably more profitable for them than having people man the counters and selling the cigarettes over the counters in certain situations. It also monitors the sales and it does give a profit margin of a great degree to

small businesses who decree most of their profits are from either cigarettes or alcohol. I would encourage you to join me in voting against this motion at this time, so that we can vote for the Majority Report.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President. Men and women of the Senate, again this was one way that we're trying to get to teen smokers. We know that most adults started smoking when they were teens. A Minnesota study showed us that 79% of the time young people were able to access cigarettes from machines.

When someone gets a vending machine it's a one time license. We have said that the vending machine should be in an area that is supervised. That is not always possible. Young people can come into these establishments where these machines are with adults. There are children accessing cigarettes in vending machines. That was the message that the Committee was sending. That is another loop hole where children can get their hands on cigarettes. Thank you.

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Off Record Remarks

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**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Mr. President and men and women of the Senate, I've been asking what the situation is in regard to vending machines. How many there are, and what sort of presence they have in this state. My understanding is there are 460 machines that are licensed. They may not all be in service, so the number may actually be considerably smaller than 460. I would suggest on the basis of those figures that this is not an issue that has a very large economic impact.

My understanding is that the businesses that do sell these products also sell many other products through vending machines. It's not an exclusive line for any one business.

The question that I have always asked when this issue has come up is if it is a requirement that a vending machine be located only in a place that an adult is near by. Typically someone tending the bar or otherwise servicing the area. What could possibly be the harm in requiring that the same cigarettes be sold by that person? Why not create a situation where there is a need for an in-person sale? Why not put the cigarettes behind the bar? Let the bartender sell them and make change. Do it that way rather than have a machine in some remote corner that may be within sight of the bartender, but not in a place where it would be free from use by minors. That's the point. I urge you to support the pending motion. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you Mr. President and ladies and gentlemen of this Chamber. Banning smoking in an eating establishment is a little different than the Bill that confronts us right now. I supported the other one wholeheartedly because in

my view it protects the smoker, as well as the nonsmoker. But when it comes to banning the product in the vending machine your infringing once again on the ownership of a business. Your telling them how to run their business. I don't think that's free enterprise.

If we want to be really honest and we don't want to have the sale of tobacco in vending machines or on store displays which will be coming up again, let's be honest and ban the import of tobacco in our state totally. We don't want to be that honest because we would also lose a little bit of the tax revenues that we expend elsewhere. So my main reason was that it was once again stepping on the rights of businesses to run their own affairs. That's the reason I supported the Majority Report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Douglass.

**Senator DOUGLASS:** Mr. President, I rise in support of the motion to Pass this prohibition, selling tobacco from vending machines. I just returned from a seminar at which all 50 states were represented by their legislatures, a seminar on health. I was very sorry to once again hear that Maine has one of the highest rates of tobacco use among its adults. And, it has one of the highest rates of tobacco use among its children and its adolescents. This is the period of time in which people become addicted to the dangerous drug nicotine. We must protect our children from the harms of that drug and require that an adult be present whenever sales of tobacco are made. The idea that cigarettes should be sold in vending machines probably comes from that era when men and women were given cigarettes in the armed forces and various other individuals. There was a time when everyone in society thought it was no big deal to smoke. We now know better. It's time for us to make sure that we act in conformity with that knowledge. I urge you to ban the sale of tobacco from vending machines.

The Chair ordered a Division. 14 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator PINGREE of Knox to **ACCEPT** the Minority **OUGHT TO PASS** Report, **FAILED**.

Majority **OUGHT NOT TO PASS** Report **ACCEPTED**.

Sent down for concurrence.

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Off Record Remarks

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

**NOMINATION** - of John M. Joseph, Jr. of Hallowell, for appointment to the Maine Milk Commission.

Tabled - March 24, 1999, by Senator **PINGREE** of Knox.

Pending - **CONSIDERATION**.

(In Senate, March 24, 1999, Communication (S.C. 147) from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY, READ** and **ORDERED PLACED ON FILE**.)

The President laid before the Senate the following: "Shall the recommendation of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 506 of the 119<sup>th</sup> Legislature, the vote was taken by the Yeas and Nays.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#42)**

**YEAS:** Senators: None

**NAYS:** Senators: **ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CASSIDY, CATHCART, DAGGETT, DAVIS, DOUGLASS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, KILKELLY, KONTOS, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PENDLETON, RAND, RUHLIN, SMALL, TREAT, PINGREE, THE PRESIDENT - MARK W. LAWRENCE**

No Senator having voted in the affirmative and 35 Senators having voted in the negative, and none being less than two-thirds of the Membership present it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and nomination of **John M. Joseph, Jr.** of Hallowell, for appointment to the Maine Milk Commission. was **CONFIRMED**.

The Secretary has so informed the Speaker of the House.

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The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

**SENATE REPORTS** - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Establish the Chesuncook Soil Series as the Official State Soil" S.P. 203 L.D. 592

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-29)** (10 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - March 24, 1999, by Senator **PINGREE** of Knox

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

(In Senate, March 24, 1999, Reports **READ**.)