

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Nineteenth Legislature**  
**State of Maine**

**Volume I**

**First Regular Session**

December 2, 1998 – May 12, 1999

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Research and Development has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 2125 An Act to Implement the Recommendations of the Target Industries Committee to Promote Research and Development Activities in Maine

We have also notified the sponsor and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Carol A. Kontos

Senate Chair

S/Rep. Scott W. Cowger

House Chair

**READ and ORDERED PLACED ON FILE.**

**CONSENT CALENDAR**

**First Day**

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 546) (L.D. 767) Resolve, Regarding Legislative Review of Chapter 311: Renewable Resource Portfolio Requirement, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass**

(H.P. 749) (L.D. 1039) Bill "An Act to Allow Horse Racing Commencing at Noon on Sundays" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-526)**

(H.P. 931) (L.D. 1308) Bill "An Act to Clarify Roles and Responsibilities in the Child Development Services System" (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-525)**

(H.P. 1000) (L.D. 1398) Bill "An Act to Secure Environmental and Economic Benefits from Electric Utility Restructuring" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-522)**

(H.P. 1140) (L.D. 1625) Bill "An Act to Clarify Certain Laws Administered by the Department of Environmental Protection, Bureau of Remediation and Waste Management" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-519)**

(H.P. 1152) (L.D. 1649) Bill "An Act to Strengthen Maine's Research and Development Capacity in Renewable Energy Resources" **JOINT SELECT COMMITTEE ON RESEARCH AND DEVELOPMENT** and Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-523)**

(H.P. 1445) (L.D. 2066) Bill "An Act to Amend the Laws Relating to Slash Disposal along Highways and Railroad and Utility Corridors" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-524)**

(H.P. 1544) (L.D. 2198) Bill "An Act to Fund the Costs Associated with Determining Eligibility for Certain Marine Resources Licenses" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-517)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

**HOUSE DIVIDED REPORT - Majority (11) Ought to Pass as Amended by Committee Amendment "A" (H-370) - Minority (2) Ought Not to Pass - Committee on HEALTH AND HUMAN SERVICES** on Bill "An Act to Control the Sale and Display of Tobacco Products"

(H.P. 1123) (L.D. 1582)

**TABLED - May 5, 1999 (Till Later Today)** by Representative KANE of Saco.

**PENDING - Motion of same Representative to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.**

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

Representative **KANE:** Mr. Speaker, Men and Women of the House. This bill "An Act to Control the Sale and Display of Tobacco Products," would place tobacco products under the direct supervision and control of the storekeeper. It requires tobacco to be displayed, or offered for sale only in a manner that does not allow the purchaser direct access to the tobacco products. It exempts tobacco specialty stores and locations in which the presence of minors is generally prohibited. It further states that the provision does not preempt a municipal ordinance that provides for more restrictive regulations on the sale of tobacco products. I urge you to support the Majority Ought to Pass Report.

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

Representative **LOVETT:** Mr. Speaker, Ladies and Gentlemen of the House. This bill would eliminate the self service displays from all Maine stores that sell cigarettes, cigars and smokeless chewing gum. Self service displays do more to entice our children to smoke and to steal. All this bill does is to move the temptation of theft. I urge you to vote on the Majority Ought to Pass as Amended. Thank you.

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

Representative **BROOKS:** Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to this bill. I was in a store just over the weekend, a friend of mine, as a matter of fact, runs that store. I'm not going to tell you his name but he sits not far from me. I've given him a little bit of fun since that time because of the cigarette displays that he does have in his store, which are covered in plastic and inaccessible to the customer. Well that was fine for me because, I didn't want any anyway. I understand that there are some cigarette tobacco that may be redundant. There are companies that are willing to provide these cases for the displays in the store. I don't know but I guess probably, without charge, I don't know that. I say that's wonderful, if that's what they want to do. My concern about this

legislation is that it is further micro-managing. I'm not sure if we start doing things like this, how far we're going to go. I have a friend who runs a store right directly across the street from my home in Winterport and he approached me several times about this because he is very concerned about additional renovations that he is going to have to make to his store. He has made recent renovations to make it convenient for customers. He says to make the further renovations to take the cartons of cigarettes, or packages of cigarettes, off the aisle display, in the rearrange his store to accommodate them behind the counter or to accommodate them in a plastic case on the counter will cost him several hundred dollars. I don't dispute this, he's doing very, very well at this store, what I question is our reasoning as far as going in and attempting to rearrange his store.

I have heard in the testimony before the committee about shoplifting, and by the way, the fellow who testified before us and members of the committee have reminded me that this is not just shoplifting among the juveniles, but the elderly as well. I think that's pretty sad, it's an indictment of the elderly, but that too is not my job. If I was going to legislate in an effort to stop shoplifting, I suppose that then I would say, let's put chewing gum, and squirt guns, and aspirin products, and anything that is small that can be put in a pocket in plastic cases so they can't be. What about alcoholic beverages? There is a law in the State of Maine that you can't purchase cigarettes, nor have them in your possession if you are younger than 18 years of age. Why aren't we relying on those laws? What's next? Lighter fluid, white gas, charcoal lighter, these are all incendiary devices and dangerous. I'd say let the storeowners alone. Let them set up their displays, if they feel uncomfortable about putting cigarette packages out there and if they are losing them as some say they are, then let them do as my friend did in Ellsworth and get the company who provides the cigarettes to provide a plastic case in which you can't reach in and take out an individual pack. You have to be served.

Why do we need a law to do this? I hope that you will vote against the Majority Ought to Pass so we can get to that Minority Report. This is a bill we do not need turning into law. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Peavey.

Representative **PEAVEY**: Mr. Speaker, Men and Women of the House. I rise today to urge you to support the Majority Report of LD 1582. This is my bill and please notice that the committee amendment replaces the bill. So if you are looking it up, look up the committee amendment. The Majority Report, as Representative Kane states, eliminates self-service of tobacco products. Maine is ranked number one in the entire nation in smoking among young adults, ages 18 to 30. It has one of the highest ratings for teen smoking. 90 percent of those young adults began smoking before they were 18 years old and half of all smokers began before they were 14. Clearly, we need to take some action to reduce those numbers. Police officers and sheriff's departments will tell you that the majority of their shoplifting calls that involve youth also involve shoplifting tobacco products. One study shows that half the kids grades 6, 7, and 8 who are addicted to tobacco products, use shoplifting to obtain their cigarettes. Eliminating self-service sales is a very important step in dealing with access and shoplifting.

For years, the American Lung Association and the American Cancer Society have led the campaign to reduce youth smoking. Now the whole process has changed, we have a true grass roots

effort, with town councils, parent teacher groups, community policing groups all over the state. The City of Portland, Freeport, Westbrook, Bath and Gardiner have all passed ordinances that eliminate self-service sales of tobacco products. This bill came out of a West Bath Community Policing Group, which I belong to, it's made up of parents, selectmen, the clam warden, retired people, teachers and the Sagadahoc County Sheriff's Department. They decided their number one goal was to find ways to reduce the access of their children and children all over the state had to tobacco products. The Majority Report is a vital step in reducing youth access. With this amendment stores will not be required to removed the counter displays of tobacco products that we often see on the counters beside the cash registers. It simply means that all the tobacco sales go through the clerk. Having sales go through the clerk is a great deterrent to under age youth attempting to purchase tobacco products, because storeowners are so careful to check the IDs.

The displays, which in stores hold the packs of cigarettes and containers of smokeless tobacco are most often provided by tobacco companies. In the towns and cities that have passed this ordinance, the five that I mentioned, the tobacco companies have provided the stores with counter displays, the stores that still want counter displays, that are made of clear Lucite. It's a Lucite box that sits on the counter. You can see the tobacco products through the front, but you can't reach in to get them, the clerk has to get them. Again the displays do not have to come off the counter, it just means that people can't reach in, the sale goes through the clerk. The tobacco industry is very supportive and very willing and able to provide stores with whatever needs they have to change their displays from self-service to clerk assisted sales. Shoplifting of tobacco products would be almost impossible if this amendment passes and we will have taken one more step to reduce youth access to this tremendously addictive product. I hope that you will support the Majority Report and I might add there is also an exemption in this, Representative Kane mentioned the exemption of the tobacco store. There is also an exemption for cartons. The amendment says units of 10 or more. Very few kids are going to get a carton of cigarettes in their pocket, it's single packs that we are trying to eliminate.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I'm a little confused by all this discussion on this bill. If I recall correctly, in the 118th Legislature we passed a bill out of this Legislature that allowed municipalities to regulate tobacco displays and if we have done that, why are we doing this now? It seems that we are being inconsistent. The debate before we broke for dinner, we talked about local control and now we're talking about a statewide basis. I think we are being very inconsistent here and I will not be supporting this report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative **BUCK**: Mr. Speaker, May I pose a series of questions through the Chair?

The SPEAKER: The Representative may pose his questions.

Representative **BUCK**: I have a series of questions for anyone who could answer. Picking up on what the speaker last said, as you know two years ago we passed legislation that placed this issue clearly in the hands of the cities and towns and my question is, why is this legislation before us today? Is it

because the cities and towns have opted not to do this for one reason or another?

My other question is, we hear a lot about teen smoking and the affects that shoplifting has had on it, is there any specific date that proves that teenagers are getting their cigarettes through shoplifting rather than through other means, like friends, parents and so forth, that have actually purchased it for them. As many of you know, I am a local merchant who sells cigarettes, where I work all of my employees are cautioned not to sell cigarettes to minors and I am absolutely sure, or reasonably sure, that that does not happen. I'm also reasonably sure that shoplifting does not take place because of the efforts that we've put in place in terms of training our employees, so my question is, what is the real effect of this legislation? Is it because the legislation 2 years ago didn't work? Can anyone answer those questions please?

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. As you know, I am the other person on the committee that opposes this piece of legislation and I stand here today to speak again this piece of legislation. First to answer the question, I think I'm correct, that was just asked. Yes, it is working in towns, local towns are putting in local options in regards to displays. In my opinion, I believe that we should keep the law exactly the way it is now. At first when I was working on this bill, I thought oh yea this is a great idea, this will keep the kids away from the cigarettes. The more we worked the bill, the more we changed it, the more we amended it, we kept looking at difference types of amendments, one was Texas, one was another type of amendment that another state did. I just got this feeling of uneasiness and feeling extremely uncomfortable with what we were doing in our committee. You know, we need to ask a few questions here. There is a Senator from the other body that always says to our committee, do we need this law? Is this law necessary? Well, I believe this law isn't necessary, we've already been told that the tobacco companies will supply these containers free of charge. The merchant asks to have it, they will give it to them. I'm concerned just like the good Representative from Winterport, who said they're already micro-managing these stores. I've gone into a lot of different stores lately and I already see that they're putting their cigarette products up and away from children's reach. I think the storeowners certainly do not want to have their products stolen. I think that's the last thing they want to do, but I also have had various store owners in my district call me and say, please let us be the ones to make that decision. You have to think there's all different size stores out there. Some stores just will not accommodate this container, so please I urge you to vote against the pending motion and vote Ought Not to Pass on this piece of legislation.

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

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. I am on the Majority Report of this Committee that we really ought to pass this bill. The reality is that kids still have access to tobacco products that make it easier for them to obtain the products. The study on shoplifting did show that 9 percent of juveniles use shoplifting as their primary way of procuring cigarettes. In response to the questions about the municipal ordinances, 5 towns have had ordinances relative to the display of tobacco products and they would like to see the

rest of the state do the same thing. They feel it has been effective and the products are still out there for display, but they are not accessible by simply lifting out a pack of cigarettes. I would note that the tobacco manufacturers have been paying stores to put their displays out on the counters and in front of the store. I can't help but feel that this is a promotion to help sell the product and they still will be displayed, but also to make them easier to access. They are on racks next to the door in some stores, where you can easily pick them up and that's what the tobacco manufacturers want. I would remind you of our high rate of youth smoking. We need to do everything we can to reduce access to cigarettes. I urge your support of the Majority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Bull.

Representative **BULL**: Mr. Speaker, Men and Women of the House. Very briefly, Freeport was one of the first communities in the state to enact an ordinance such as this and my understanding is that the committee report basically mirrors what they did in Freeport. Freeport passed this ordinance back in July and many of the arguments we're hearing here tonight that it would be costly for the stores, micro-management, were heard last July. None of the stores in Freeport have gone out of business, they're all thriving. I talked to the town manager of Freeport just today and there have been absolutely no complaints whatsoever with this ordinance in Freeport. There is one store that was not in compliance, the police chief went down and simply discussed the issue with the store manager and was resolved amicably. This has not been a problem in Freeport, everybody has been able to address the situation as the Representative from Woolwich, Representative Peavey said, they simply put the plexi-glass boxes on counters. It's still very visible, they just can't be reached. The problem they had in Freeport was that children were shoplifting and that was one way they were getting addicted. Is this going to solve the problem of abuse smoking here in Maine? Of course not, but in response to the Representative from Poland, Representative Snowe-Mello, if this bill prevents one child from starting to smoke than this is a success. Thank you.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. Quite often we try to decide whether any issue should be a local issue or a statewide issue, it seems to me this is working. This is one of those, we already have 5 or 6 towns and cities that it's working. The testimony sounds like this is exactly one of those things, it should be and is being handled locally. I say that we ought to let that to be.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative **POVICH**: Mr. Speaker, Ladies and Gentlemen of the House. This legislation I support because it's legislation that benefits small businesses. It's not difficult to steal a package of cigarettes, you can get a package of cigarettes in the blink of an eye. Until recently, cigarette manufacturers were reluctant to offer the theft proof merchandisers, I can only suppose why. Finally, some started offering them, in my store it's been a saving of about a \$100 a week in lost cigarettes. Regarding local control, there's still the involuntary affect of youth access to cigarettes, which supersedes in my mind the interest of local control. In regarding the good Representative from Winterport, Representative Brooks, whom I did not have the

good fortune to greet last night, my clerks are still wondering exactly who was that man. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House. First a little comment to my friend, the Representative from Ellsworth. As I mentioned before, if you sell cigarettes you should talk with me after the session and I can talk to you about inventory control, I can guarantee you that none of the cigarettes in my store are being shoplifted. I'm too cheap for that. I'd also like to respond to the Representative Fuller, who talked about the rebate we get from tobacco companies, and yes, we do and I take that money gladly. I take it from any distributor that wants to give it to me and I would also mention that I also receive money from the dairy farmers whose milk I place in my store and I'm wondering if perhaps we should prohibit the shoplifting of milk from these youngsters as well or perhaps even the sale of it. The point I'm trying to make is, this is not going to make a significant affect. This is not going to make a significant affect on you, the smoker. Youngsters who are determined to smoke, are going to smoke as I talked about last week, their friends and their parents are the ones that supply the cigarettes to them and because the question I asked earlier was not answered, I can assume correctly, I think, that youngsters that receive tobacco do not receive it from shoplifting, they receive it from their friends and their families. If we really want to attack this problem, perhaps we want to educate friends and families about the issue of smoking, instead of placing the burden on the merchant who is doing everything in his power to prevent it anywhere.

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

Representative MATTHEWS: Mr. Speaker, Men and Women of the House. I hope that we can exchange all of those signs for signs kids to drink milk. I think that's a great idea. Men and women of the House, I saw an ad the other day, a public health ad, against smoking, which kind of stayed with me and I think is applicable to the discussion today. That was from a gentleman who worked for the tobacco industry for many, many years in public relations. This public service announcement that this gentleman now is promoting anti-smoking because in his own words he wants to make amends for promoting a product, which has killed literally thousands of Americans, young and old across this country, but this gentleman's remarks were, I was the best in the business in public relations. I worked very, very hard in setting up those kinds of displays, in promotional campaigns in the media and in the press promoting smoking and believe me, he said, everything we did, everything we did, to promote smoking had an insidious message and plan to get kids hooked to smoking early, so they would smoke forever until they drop dead. Ladies and gentlemen, these kinds of displays by the tobacco industry, I don't blame the small businessman, but we need to nail the tobacco industry right where it hurts. They do this for a reason, ladies and gentlemen, to hook kids. I don't really care too much about the shoplifting, I hope it stops that, that isn't for me a big issue, seeing that display when I go to my store out of there so the kids won't see that display and see all those cigarettes, that's what's important. This campaign won't stop. We'll be back at every step to make smoking inaccessible to kids and to promote a healthy lifestyle for everybody, because smoking kills. That's the bottom line, we know that. The tobacco industry still doesn't accept it, but smoking and cancer kills and

ladies and gentlemen, I hope you will pass this. It's a good report and bring it on. Thank you.

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

Representative FULLER of Manchester REQUESTED a roll call on the motion to ACCEPT the Majority Ought to Pass as Amended Report.

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 Winterport, Representative Brooks.

Representative BROOKS: Mr. Speaker, Ladies and Gentlemen of the House. I want to reemphasis what the bill will do, it doesn't take away displays, if there is an insidious posture of tobacco companies behind displays, believe me they are going to be bigger, brighter, and more beautiful than ever in a plastic case. This doesn't affect that at all. In order to absolutely set the record straight, I want everybody in the House to know that I was not in my friend's store last night to buy a pack of cigarettes.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Mendros.

Representative MENDROS: Mr. Speaker, Men and Women of the House. I don't think there is anyone responding that hates cigarette smoking more than I do, I suffer from dry eyes, I suffer from bronchitis, and being around smoke really bothers me. Many members of my family smoke and it's bothered me quite a bit. I was very happy when my father finally quit. I have to oppose this, because I think we are going the wrong way in this state. I can give you some numbers, Maine has one of the highest taxes on cigarettes, we also have the strictest anti-smoking laws in the country and yet as we heard, we're number one in teen smoking. Now I don't have kids, but my sister and my brother have told me, the harder you try to stop a teenager from doing something, the more incentive it is for the teenager to do it. I truly believe the reason our smoking rate is going up is because we are telling these kids not to smoke. Kids want to be rebels. This is the easiest way to be a rebel, bum a cigarette off a friend and you become an instant rebel. That's what we are doing. We're pretending we want kids to stop smoking, but in reality, we're creating more teen smokers and I really believe we need to take a look at that. We're working against ourselves.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative SNOWE-MELLO: Mr. Speaker, Ladies and Gentlemen of the House. I must appear that I don't like kids. I must appear that I feel that kids should keep smoking. I've always hated this. I've always hated that children smoke, so ever since we started doing this thing on getting kids to kick smoking, I've gone out and when I see kids smoking I talk to them. I act like an adult, and I go up to them and I talk to them and ask them and say, you know I'm a legislator and did you know that it's against the law. I know everybody thinks I must be nuts for doing this, but I'll tell you, I think that it's each and everyone of our responsibility when we see children smoking to point it out to them. By telling a storeowner what to do with his product line, I don't believe is our responsibility, so please think about this twice, where are we going with this. You pass this law to tell somebody what to do all over the State of Maine in small stores. Think if you were an owner of a store. I know that the good Representative Povich said that he already does this, but I think that's another point, there are stores that can do this all on

their own. They don't need us to tell them to do it. The law is working, leave it up to the local towns to do this. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass Report. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 145

YEA - Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Brennan, Bruno, Bryant, Bull, Cameron, Chick, Clough, Collins, Colwell, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Duplessie, Etnier, Fuller, Gagne, Gagnon, Glynn, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Kane, Kneeland, LaVerdiere, Lemoine, Lovett, Mailhot, Martin, Marvin, Matthews, McDonough, McGlocklin, McKee, McNeil, Mitchell, Murphy E, Murphy T, Muse, Norbert, O'Brien LL, Peavey, Pieh, Povich, Powers, Quint, Richard, Richardson J, Samson, Savage C, Savage W, Saxl MV, Shiah, Shields, Sirois, Stanwood, Stedman, Stevens, Sullivan, Thompson, Tobin J, Townsend, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Williams, Mr. Speaker.

NAY - Ahearne, Bouffard, Bowles, Brooks, Buck, Bumps, Campbell, Chizmar, Cianchette, Clark, Cote, Cross, Dunlap, Fisher, Foster, Gerry, Gillis, Heidrich, Jodrey, Joy, Kasprzak, Labrecque, Lemont, Lindahl, MacDougall, Mack, Madore, McAlevey, McKenney, Mendros, Nass, Nutting, O'Neal, Perkins, Pinkham, Plowman, Richardson E, Rines, Rosen, Saxl JW, Schneider, Sherman, Skoglund, Snowe-Mello, Stanley, Tessier, Tobin D, Tracy, Trahan, Treadwell, True, Waterhouse, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Andrews, Bragdon, Carr, Frechette, Jones, Mayo, O'Brien JA, O'Neil, Perry, Sanborn, Shorey.

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

85 having voted in the affirmative and 55 voted in the negative, with 11 being absent, the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (H-370) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, May 11, 1999.

HOUSE DIVIDED REPORT - Majority (11) **Ought Not to Pass** - Minority (2) **Ought to Pass** - Committee on **JUDICIARY** on Bill "An Act to Change Reporting Requirements of Certain HIV Test Results"

(H.P. 43) (L.D. 57)

TABLED - May 5, 1999 (Till Later Today) by Representative THOMPSON of Naples.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. I hope to do a better job at explaining this bill than I have done before. It should not be a partisan issue, because HIV doesn't care if you're a Democrat, Republican, Independent or what. Human Immune Deficiency Virus is a peculiar disease. When you get it, you don't know it, there's no sentinel event. There's no sore, there's no illness. It lasts 8 to 10 years, it's insidious and the first several years you don't know you have it, but that little virus is in your body gradually eating away your immune system. It's acquired by blood and semen basically, those are the two kinds of contacts.

Now in 1998, the Center of Disease Control in Atlanta, which is the high temple of contagious disease information, said that tracking HIV by using names is a more reliable and efficient reporting system than by using the unique identifier system, which is in code numbers for people that have it. In Texas which is one of the two states that had employed unique identifiers had recently concluded at that point that name based reporting was the best system to provide the accurate information on the epidemic and the ability to follow up on the reports. Contrary to the claims of HIV activist unique identifiers may not protect the patient's confidentiality any better than a name reporting system.

Furthermore, in Virginia in 1989, testing for HIV actually increased when they started name reporting. When they eliminated a anonymous testing in North Carolina, HIV testing increased by 45 percent. HIV is not a civil rights problem. It is not sexual preference problem. It's a disease. It doesn't care what age you are, it starts with newborns and works its way up as far up as you want to go. It doesn't care what your gender is, your race, or your sexual preference. Again, in 1999, the Center for Disease Control concluded that name based HIV surveillance systems are the most likely to met the necessary performance standards. Now, the Maine Bureau of Health, in its wisdom adopted a non-name identifier system, unique identifier system, in spite of all the information that was present. The spread of disease, particularly HIV, cannot be controlled unless you know who has it. I'm appealing to common sense and good judgment. Once you know who has it, you can counsel them, notify their contacts, and begin to contain the spread of this disease.

Many fewer people are dying of AIDS, which is the end stage of the HIV infection, but there is no decrease in the number of new cases. What we have now are these new drugs called protease inhibitors, which keep people alive longer. We don't know how long they are going to last and that little virus continues to mutate, so we have to keep developing new drugs to solve the problem. Now the state has anonymous testing sites, I hold that there is no benefit to the public health control of this disease. As an experiment, I posed myself as an anonymous person and went to an anonymous testing site. I was known as Joe. I made my appointment. I went in and filled out my questionnaire, was asked a lot of questions, had my blood drawn, was issued an identification, told to call back in a week and make an appointment to get my result, which I did. I went back for my appointment in a week, got my result and they didn't know who I was, and they'll never know who I was, because it was anonymous. Now if I was positive, I could keep right on going the way I was, as a number of social misfits have done in this country and decided since they're HIV positive, they're going to take people with them and they are going to spread it as much as they can. Now 26 states already require name reporting. The leaks from the system, which is what the HIV community fears, are basically from the people themselves, not from the system. In fact, there were well over 400,000 people who were registered as HIV registering system and all that confidentiality was maintained. All this bill does is very simple, it's very short and it says if you have an HIV positive test, your name will be reported to the health authorities so that you can get help, counseling, treatment and the disease can start to be controlled. I hope that you will for this.

Representative SHIELDS of Auburn **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.