

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-First Legislature
State of Maine

Volume I

First Regular Session

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Pages 1-776

(H.P. 977) (L.D. 1323) Bill "An Act To Adopt an Interstate Compact for Juveniles on Probation and Parole" (C. "A" H-209)

(H.P. 1023) (L.D. 1396) Resolve, Regarding Legislative Review of Portions of Chapter 2: Aquaculture Lease Regulations, a Major Substantive Rule of the Department of Marine Resources (EMERGENCY) (C. "A" H-206)

(H.P. 1050) (L.D. 1431) Bill "An Act To Update the Requirements of Counties' and Municipalities' Audit Reports" (C. "A" H-211)

(H.P. 1060) (L.D. 1448) Bill "An Act To Clarify the Administration of State-municipal Revenue Sharing" (C. "A" H-205)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

The House recessed until 11:00 a.m.

(After Recess)

The House was called to order by the Speaker.

The following items were taken up out of order by unanimous consent:

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass** - Minority (3) **Ought Not to Pass** - Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Ban Smoking in Beano and Bingo Halls"

(H.P. 186) (L.D. 227)

TABLED - April 29, 2003 (Till Later Today) by Representative KANE of Saco.

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

Subsequently, the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** later in today's session.

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-170)** - Minority (3) **Ought Not to Pass** - Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Keep Foster Children Safe and Healthy"

(H.P. 63) (L.D. 55)

TABLED - April 29, 2003 (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 Newfield, Representative Campbell.

Representative **CAMPBELL**: Mr. Speaker, Ladies and Gentlemen of the House. Mr. Speaker, this is just going to put another burden on foster parents. I don't know how it is going to be policed. As it stands now the foster parents came in front of the Health and Human Services Committee a few weeks ago wanting to unionize. They are being harassed enough as it is without putting another burden on them. If you take a foster child into your home, you can't go down in your workshop in the cellar in the evening and smoke a cigarette while the child is on the third floor sleeping. You can't use your car and smoke in it and three days later take and put the child in the car and take the child somewhere else. Thank you.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. The essence of this bill essentially prohibits foster parents from smoking in the home when they have a foster child in their care. Secondly, the application to vehicles, foster parents cannot smoke in the vehicles when the child is present. They are prohibited from smoking in their homes at any time because of the long-term impact of second-hand smoke.

When children are removed from their own homes, it is usually to protect them from abuse and neglect. The children are generally referred to DHS for child protective services. Maine has a clear, legal and moral responsibility to protect the best interests of these children. We currently invest hundreds of millions of dollars in the child protective system, a system that includes both adoptive and foster care. The state contracts with these providers of foster care to act as agents of the state to care for and protect the state wards in an environment that they expect and needs to be physically, emotionally and morally healthy and nurturing. In their contract, which they voluntarily obligate themselves to a number of conditions, the state specifies a number of defined expectations and requirements. Requiring foster parents to protect children from the effects of second-hand smoke is merely an extension of their existing contract, which foster parents may choose to accept or not. They can choose to terminate their contract if they find protecting children from second-hand smoke as being unacceptable to them.

The bill does not constitute an unwarranted intrusion into the private lives of foster parents. It merely extends the state's responsibility. It is our responsibility to protect the health and well being of our children. I believe that the vast majority of foster parents recognize the importance of the need to protect children in their care and at our public hearing there was no opposition to this bill.

Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Laverriere-Boucher.

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Men and Women of the House. I am a foster parent. I do want to point out, again, that there were no foster parents in opposition to this bill at our public hearing. Foster parents may still smoke. We are not telling foster parents they can no longer smoke. We are just telling them that they cannot smoke in their homes when they have a child in their care. They cannot smoke in their car when the child is present in the vehicle. However, they may smoke in their vehicle when the child is not there. Foster parents at a therapeutic level decide to do foster care and it is a living. They get paid a very good stipend to care for these children. They decide to do this because these children need a safe place to be.

If you notice on your yellow page that you were given today, a safe place is not a place where there is danger of health hazards. Second-hand smoke is very dangerous for children, especially for

children who have been abused. Their resistance is lower than most children and they get a lot of respiratory problems from that. When you vote for this, and I hope that you support Ought to Pass, I hope that you remember the children when you vote. These children have gone through a lot of harm. The last thing that we need is to continue to put them in harm's way. Thank you.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. This bill is clear and straightforward. The state is responsible for the safety and welfare of the few thousand children that we have under state care. Second-hand smoke is unequivocally proven to be harmful. These children have no choice if they are placed in a home where there is smoking. Maine pays foster parents handsomely to care for these children. No one makes you be a foster parent. Protect the children when we have this responsibility. I echo everything my friends across the aisle have stated.

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

Representative **CRAVEN**: Mr. Speaker, Men and Women of the House. I don't know how many ways one can say that second-hand smoke is a health hazard. It costs the state millions of dollars a year when subjecting a child who has no choice to cigarette smoke while in the vehicle is unconscionable. People who provide foster care and provide services to our foster care children do this as a livelihood and it is their job for which the State of Maine pays them. Please vote to pass this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Richardson.

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. I think that your intentions in this bill are wonderful. You ought to protect the health of the children who are in foster homes. I think your approach to it is wrong. If you are so concerned about the health of the children in foster homes, the next step is to be concerned about all the children in the State of Maine in homes that aren't foster homes whose parents smoke. Are you ready to tell people in the State of Maine that you cannot smoke in your home because the Department of Human Services thinks it is unhealthy for those children to be there? I submit to you that the better way of doing this is for the Department of Human Services to select foster homes who they know don't smoke. Thank you.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative **DIAGLE**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **DAIGLE**: Mr. Speaker, Men and Women of the House. I admit to near total ignorance on the foster care situation, near total, not absolute. One of the concerns that I have about this is my assumption that we are drastically short of foster parents in this state. It is near a crisis and trying to get more parents who will step forward to assume this very difficult role. That affects my opinion on this bill. I would feel differently if I believed that we had a waiting list for parents standing forward to take children as foster parents. I was wondering if somebody could clarify to me what the actual case may be.

The SPEAKER: The Representative from Arundel, Representative Daigle has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative Kane.

Representative **KANE**: Thank you Mr. Speaker. There was an issue that has been raised over the past several sessions with respect to a lot of the expansion of restrictions on foster parents, the increase in regulations and so on to provide better supervision, the whole question of supply and how not to be overly restrictive to cut off supplies. We have been assured by DHS right now that there is no waiting list of children for foster parents. It was discussed in our committee. We felt assured that that was not a huge risk. There is an active recruitment effort under way and as a previous speaker indicated, it likely will include attempting to recruit more foster parents who don't smoke so we don't get into this in the first place. In the meantime we are dealing with a situation where foster parents were recruited and foster parents are operating very well as foster parents. I guess the interesting thing for the committee is that we did not have any huge outcry from foster parents, from their associations or from anybody else who determined that this was a significant hardship for them. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Mr. Speaker, Ladies and Gentlemen of the House. I want to give you a little background. I once was a foster parent. I thought and I believed in my heart that would be one of the most wonderful things that my wife and I could do during our lives is be a foster parent. We looked at that experience with great anticipation and excitement. Before we became a foster parent, DHS came to our home. What they did was they inspected our home for safety measures. Ladies and gentlemen, I am a hunter. I have seven or eight rifles. I have several handguns. I am also a logger. I have chemicals for my business. All of those things were inspected and many others in my home, my electrical system, my furnace and many of the safety issues that address children in every home in this state had to be addressed by DHS. We ended up building a very strong locked cabinet for my guns. We went through our home and we basically sanitized it for that foster child. I believe this is one of those issues that deserves that type of approach. That is a good policy within the Department of Human Services when they look into someone's home for safety measures to look in that home and to find a way that those endorsed legal activities that take place in our state fit in to that foster care situation. I believe there is a much better way of approaching this problem. Unfortunately the amendment that I had wanted to bring forward cannot be written because the Revisor's Office computers have crashed. I have to stand here today in hopes that we might table this briefly so that we might see an amendment to address this problem. Unfortunately, I can't speak to it. For that reason, Mr. Speaker, I move that we table this until later in today's session.

The SPEAKER: The Representative is out of order.

Representative **DUNLAP** of Old Town **REQUESTED** a division on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Fischer.

Representative **FISCHER**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today to dispute something that the good Representative from Auburn said. He said that this was a clear and straightforward bill. I have to disagree. We are talking about second-hand smoke to children, yet we are going to ban smoking in a car when the child is present and we are going to ban smoking in one's home when the child is not present. I do not see the risk of having a foster parent smoke in their home when the child is not there, anymore than I see a risk in having the foster parent smoke in their own car when the child is not there. If we were able to change this bill in some way to make it

so that a foster parent could smoke in their house when a child was not present, I would be very accepting of this bill. As it is written presently, I cannot support it.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative O'BRIEN: Mr. Speaker, Ladies and Gentlemen of the House. Having served on the Health and Human Services Committee for the last term and having sat through the many months of exhaustive review of the child welfare, child protection and foster care systems, I really am bothered by this type of bill, with all due respect to the sponsors.

We don't have enough time. What we have heard is we don't have enough time for our caseworkers to go into homes of the foster homes that we have now and do their timely checks on the foster kids in the system. They don't have enough time to bring the foster kids in the system to visit their siblings who may be in another foster home. We don't have enough time for the caseworkers to let them visit extended relatives. The priorities are all mixed up in my view. They are damaged kids. What they need is a warm, loving, supportive, caring home, family, parents and if someone wants to go in their basement workshop in the evening and smoke a cigar, that does not preclude them from being a warm, supportive, loving foster parent.

I would ask you to defeat this motion of Ought to Pass so we can go on to defeat this bill and move onto more important items. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Jacobsen.

Representative JACOBSEN: Mr. Speaker, Ladies and Gentlemen of the House. I have been a foster parent. One of those foster children is now my daughter. She has been a social worker in the City of Portland. It is my belief that if we have enough foster homes now, then why do I see advertisements on television for foster homes. Why should we limit the people who smoke and are responsible smokers, on their own, take away their privilege of being a foster parent? A choice can be made where a child is placed. A choice can be made now. I believe they could consider whether or not there is smoking in that home. What happens when these homes are filled? Where do we put the children? Do we take that privilege away from the parents, foster parents, that would be excellent and hold them back because they smoke? I don't believe so. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Laverriere-Boucher.

Representative LAVERRIERE-BOUCHER: Mr. Speaker, Men and Women of the House. I just want to clarify one more time that we are not asking to not use people that are smokers as foster parents. There are some very good foster parents out there who smoke. If we would have no such law as we are proposing, then we would have to have a law that says you can't have a foster home that smokes. We don't want to do that, because there are a lot of people that do foster care that do a very good job and they are smokers. We are just saying that you cannot smoke in your home, like a place of work, because that is what it is, a place of work, while you have a child in your care. In this case we are not eliminating good foster homes. We are just giving them the same rules that you have when you are in a place of work. You are told you can smoke outside, but you can't smoke in the place of work. Thank you.

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

Representative SNOWE-MELLO: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative SNOWE-MELLO: Mr. Speaker, Ladies and Gentlemen of the House. I would like to know what is the length of time that these kids remain in foster care? How often are they with the foster parent? Could someone please answer me that question?

The SPEAKER: The Representative from Poland, Representative Snowe-Mello has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Biddeford, Representative Laverriere-Boucher.

Representative LAVERRIERE-BOUCHER: Mr. Speaker, Men and Women of the House. The answer to the two questions is, how long do children stay in the foster home? Some stay for a few months and some stay for several years and some stay for 10 years. As far as how many hours a child stays in the home, a newborn baby stays all day and all night. The toddlers that are not in school stay all day and all night. The kids who are in school are in the home if they are not in school. Sometimes they have other activities to go to, but they do spend at least 12 hours in the home. That is pretty much the answer.

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

Representative SNOWE-MELLO: Mr. Speaker, Ladies and Gentlemen of the House. I think that is my point that I would like to bring out. I have many foster parents that live in my district and they have complete care of these kids seven days a week, all month long, all year round. They very seldom get a break. This would mean that they would have to give up their very right to smoke all the time. There would be virtually no time for them to smoke if they so choose. I am asking you to please vote against the Majority Ought to Pass Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative TWOMEY: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative TWOMEY: Mr. Speaker, Men and Women of the House. I have yet to find out what the penalty would be if the social worker comes in and smells the smoke off the foster parent? I would really like an answer to that question.

The SPEAKER: The Representative from Biddeford, Representative Twomey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Lewiston, Representative Walcott.

Representative WALCOTT: Mr. Speaker, Men and Women of the House. According to the bill as amended, these would be major substantive rules that would be coming back before the House. The actual penalties haven't been determined because DHS will be determining those in their rulemaking process.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House. This is a public health issue that we are looking at. I am a nurse practitioner and I see parents and infants from day one on and families and children who live in a household of smoking parents and they have a much higher problem with ear infections, colds and asthma. What we are talking about is a ward of the state and a health issue that is very significant. I work with my parents to keep them from smoking in their house so that they can protect the health of their child. We are just asking, as the state our responsibility to protect the health of the children within our purview. I consider this to be a public health issue.

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

Representative **FAIRCLOTH**: Mr. Speaker, Men and Women of the House. I have worked with children in a foster home, in a group home in Alaska, as a matter of fact, and handled cases numerous times as an attorney with foster children and was actually briefly in foster care myself. I have some familiarity with these issues. I rise to speak first and foremost about my mom who is a wonderful, intelligent, good person who smokes. When I was growing up she smoked around me and my brother all the time. It was not known anything about second-hand smoke in those days. The new century has shown up and the science is clear that second-hand smoke is dangerous to children. There is no question about this. When my mom shows up to see my two sons, you know what she does? She might throw on her windbreaker or if it is winter, she might throw on her coat, and she steps outside and she has her smoke. It is not a big burden to my mom who is in her 60s. She thinks because she is an intelligent, well read person and a good person who happens to smoke, that it is the right thing to do to step outside. She only visits occasionally.

I have another friend of mine we visit occasionally and he likes to smoke and occasionally he and I might enjoy a beverage. He says he wants to step outside and he will have his smoke. He lives with his own child seven days a week and years on end and he always steps outside for a smoke. He is an intelligent man. He is a smoker. He does the right thing. When these foster parents apply in 95 percent of the cases, the money they get on the state's dime to be foster parents, the state will say, you will have to step outside to have your smoke. You know what these people will do, because they are good decent people. They will say sure, 95 percent of the time.

I trust foster parents. I trust smokers to be good intelligent people. I know when we pass this law, as we should, it will be terrific for the kids and the smokers won't object because they know it is the right thing to do. Thank you.

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

Representative **WALCOTT**: Mr. Speaker, Men and Women of the House. I want to talk a little bit about what one of the prior speakers mentioned. This information is something everyone knows and I am going to mention anyway because it bears repeating. Children who breathe second-hand smoke are more likely to suffer from pneumonia, bronchitis and other lung diseases. Children who breathe second-hand smoke have more ear infections. Children who breathe second-hand smoke are more likely to develop asthma. Children who have asthma and who breathe second-hand smoke, have more asthma attacks. There are an estimated 300,000 cases every year of infections such as bronchitis and pneumonia in infants and children under 18 months of age who breathe second-hand smoke. These result in 7,500 and 15,000 hospitalizations. Also, from a report from the Bureau of Health, the Healthy Maine 2000, A Decade in Review, it states that children exposed to second-hand smoke are 75 percent more likely to become addicted to tobacco themselves.

Also, to add what I mentioned before about the rules, for current foster homes under this bill, these rules will not take affect, assuming the Legislature passes them next year, we will have the opportunity to review them, for current homes until October 1, 2005. That will give plenty of time for current foster parents to look at what they need to do in order to comply with these rules. Thank you Mr. Speaker.

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

Representative **MOODY**: Mr. Speaker, Men and Women of the House. I, also, am a foster parent. I will vote in support of this legislation. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Jacobsen.

Representative **JACOBSEN**: Mr. Speaker, Men and Women of the House. The people in my community sent me here, not to make more laws and more regulations, but to try to get away from doing that. What will be next? If you get a speeding ticket, your foster children will be taken away? Are they going to tell us what kind of car to drive? Are they going to tell us you can't have a bottle of beer in the refrigerator? What will be next? How many laws can we pass? Let's go for it.

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

Representative **LANDRY**: Mr. Speaker, Ladies and Gentlemen of the House. I have been sitting here for God knows how long listening to the pros and cons and I spent the last 10 years trying to breathe through a tube the size of a number 2 pencil. However, be that as it may, I can tell you first hand the effects of second-hand smoke. While I am considering the merits of this bill that is before us, I can see the good points of it. All of the health facts are true. We have read about them. Scientists have proven them true. There is no question about the health ramifications. There are some questions, however, about the ramifications of not leveling this requirement on these foster parents. Should a child in their care grow up with a problem that was developed from exposure to second-hand smoke and chooses to sue the state because of this problem? I can see the merits to this bill. I can see the reasons why such a controversial issue would cause some question in our minds.

My wife of 36 years still smokes. She does it outside. She doesn't do it anywhere near me and certainly not in the car with me. I have managed to keep her. I think that we need to consider the upside of this bill. I feel it certainly outweighs the downside. We have placed some stringent requirements on these foster parents. If we look at what was just done in DHS to foster parents of children with special needs, they just restructured the entire pay system. This meant some incredible changes for these people. We are asking an awful lot of them. I think that by asking them to just step outside like the good Representative's mom does and like my wife does, I don't think that is asking too much of these people.

I don't believe it is infringing on their rights. We are not telling them they can never smoke ever again. We are telling them you can't do it around the children or in the car. That is why I think we ought to just move onto more important things and spend our time debating those issues that have some real, real effect.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. I stand before you this morning to not support this pending motion before us. Here we are putting morals out the window. If you are going to be a foster parent, you should do it in bringing up that child. Are the people accepting of adding an amendment to this bill for acting like normal parents for their children? I cannot stand smoking myself. My mother smoked ever since I was a baby. My grandmother smokes, but they go outside now. We should not mandate these people to go outside or to light up inside the house or outside the house, in the car or outside the car.

There was comment today about enforcement. If a foster parent is in the car without the foster child and they smoke, that is

fine. What happens is they smoke on the way to an event and pick up the foster child and they smoked, that smoke is still going to linger inside that car until those people get to that destination. If a DHS social worker comes up after and they are in their home, they are going to ask a question, when did you smoke with this foster child in their presence? I didn't. I did it on the way over to pick up the foster child at a sporting event. When they got in the car I was not smoking and went home. The foster child smells like second-hand smoke. How are you going to enforce this, ladies and gentlemen? We have to go back to the morals that people are there to bring up the children. Mr. Speaker, may I pose a question to the chair? To anyone that may answer, is the State of Maine in the business of employing people to bring up kids?

The SPEAKER: The Representative from Millinocket, Representative Clark has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative Kane.

Representative KANE: Mr. Speaker, Ladies and Gentlemen of the House. In response to question raised, the State of Maine is forced to be in the business of helping to bring up children who are victims of abuse and neglect and have been in that business for 100 years or more. We invest a great deal of money in assuring a quality child protective system that guarantees the security and growth and development, but physically and emotionally of these children. Yes, I am afraid, regrettably, we are in the business and will stay in that business as long as we are needed. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative TWOMEY: Mr. Speaker, Men and Women of the House. I first want to say that I have ultimate respect for the sponsors of this bill. I have never smoked in my life. I have been progressive in all of the non-smoking legislation that we have passed, but I really had to search my conscience on the fact that if the bottom line is that this is truly a health issue, which I believe it is and if it is truly an issue that we want to protect all children, then we truly should do this for the whole State of Maine. That is the problem that I am having with this. Why are we singling out foster parents? I want to go back home and say that I care about the children in my community. The State of Maine says so and I know the argument is because we pay them. As I am trying to search this through and listening to this debate, I mean there is poverty issues, hunger issues, those are issues that we can all jump on the bandwagon for and support to try to protect children. I just can't, in my mind say, we are singling out foster parents if truly the bottom line is health issues. We know second-hand smoke is bad, then we should be doing this for the whole State of Maine. I don't know how we can start just chipping away. Let's be honest about it. What are we trying to do? Be honest about it. I think this is just singling out foster parents. I think the social workers have plenty to do. They are now going to have to come in and be smoke cops and have to call in if they smell smoke on the children's clothes. There was a great question raised in caucus about, what if that child smokes? What if that foster child smokes? I am not clear about where the fines would go. Those are my concerns. I am having a real problem dealing with this because I don't support smoking. I don't support second-hand smoke, but I am also opposed to singling out one segment of Maine's population. Thank you.

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

Representative SUSLOVIC: Mr. Speaker, Men and Women of the House. I stand in support of the Majority Ought to Pass as Amended Report. I would like to remind members of this body

that at one time smoking was allowed here in this chamber. We abolished that out of the care and consideration for each other's health. I respectfully ask that we extend that same care and consideration to the wards of this state. Thank you.

The Chair ordered a division on the motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

A vote of the House was taken. 71 voted in favor of the same and 75 against, and accordingly the Majority **Ought to Pass as Amended Report** was **NOT ACCEPTED**.

On motion of Representative DUPLESSIE of Westbrook, **TABLED** pending **FURTHER ACTION** and later today assigned.

The following items were taken up out of order by unanimous consent:

BILLS IN THE SECOND READING

House

Bill "An Act to Ban Smoking in Beano and Bingo Halls"

(H.P. 186) (L.D. 227)

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

On motion of Representative CAMPBELL of Newfield, was **SET ASIDE**.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative CAMPBELL: Mr. Speaker, Men and Women of the House. I think this is just another bill that is going to hurt small businesses. If you run a bingo hall or a beano hall and you want to allow smoking or not smoking, I think it should be up to the person that runs the business. I don't think it should be up to us making laws. A lot of people seem to want to stop smoking and they are upset when some of their pet projects are taken out by the Governor in his budget and these projects are funded by cigarette money, tobacco money. I think maybe the State of Maine, like my colleague on the other side of the aisle said, we should just ban cigarettes in the State of Maine like we did alcohol years ago. No one can smoke in the State of Maine. No one can sell cigarettes in the State of Maine and then what would our budget look like when we don't get the tobacco money. Thank you.

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

Representative KANE: Mr. Speaker, Men and Women of the House. As most of us know, Maine lost a mission to reduce the adverse affects of smoking on the health of Maine citizens some 10 years ago. As a result of multiple approaches to protecting citizens from the adverse affects of second-hand smoke, we passed legislation to ban smoking in a variety of public places, most recently in restaurants. Several years of experimenting with designated smoking areas in restaurants demonstrated that very expensive equipment installed to deal with the problem did not work effectively in reducing exposure. In a recent public hearing our committee received unsolicited testimony from restaurant owners, which affirmed that the positive impact of the ban, not only on the health of customers and staff, but on the quality of the restaurant environment and significantly on the increase of businesses and profits.

The crucial aspect of the ban, they felt, was the creation of a level playing field, resulting in a total ban. The original concern was absent a total ban that people would, in fact, select among smoking and non-smoking restaurants. The smoking restaurants were afraid that they would lose business. The total ban, they welcomed it.