

MAINE STATE LEGISLATURE

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Resolve was assigned for **SECOND READING** Monday, June 1, 2009.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass** on Resolve, To Examine Data Discrepancies and Adequately Identify and Serve Children with Brain Injuries

(H.P. 597) (L.D. 866)

Signed:

Senators:

ALFOND of Cumberland
SCHNEIDER of Penobscot

Representatives:

SUTHERLAND of Chapman
CASAVANT of Biddeford
WAGNER of Lewiston
LOVEJOY of Portland
NELSON of Falmouth
RANKIN of Hiram
McFADDEN of Dennysville

Minority Report of the same Committee reporting **Ought Not to Pass** on same Resolve.

Signed:

Senator:

WESTON of Waldo

Representatives:

FINCH of Fairfield
RICHARDSON of Carmel
JOHNSON of Greenville

READ.

On motion of Representative SUTHERLAND of Chapman, the Majority **Ought to Pass** Report was **ACCEPTED**.

The Resolve was **READ ONCE** and was assigned for **SECOND READING** Monday, June 1, 2009.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass** on Bill "An Act To Prohibit the Delivery of Tobacco Products to Consumers To Prevent the Sale of Tobacco Products to Minors"

(H.P. 850) (L.D. 1230)

Signed:

Senators:

BRANNIGAN of Cumberland
MARRACHÉ of Kennebec
MILLS of Somerset

Representatives:

PERRY of Calais
JONES of Mount Vernon
SANBORN of Gorham
CAMPBELL of Newfield
STRANG BURGESS of Cumberland
EVES of North Berwick

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-438)** on same Bill.

Signed:

Representatives:

PETERSON of Rumford
JOY of Crystal
LEWIN of Eliot
STUCKEY of Portland

Representative SOCTOMAH of the Passamaquoddy Tribe - of the House - supports the Majority **Ought to Pass** Report.

READ.

Representative PERRY of Calais moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Fitts.

Representative **FITTS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This bill, though honorable in nature, is once again an attack on adult privilege. Mail-order tobacco, most especially large cigars, pipe tobacco, things that you can't buy at your corner package store, are wrapped into this bill and for that reason, I speak in opposition to the Majority Report.

This issue of minors having access through mail-order is though a difficult issue for us to find enforcement mechanisms. The real enforcement comes when kids are found in possession of tobacco and that possession comes primarily, and probably almost exclusively, from things that are purchased here in Maine. The idea that mail-order is somehow the major contributor to the ills of youth access to tobacco is a falsehood. This is basically an attack on what adults have available to them. Some of these products that are rolled into this are not available any other way but for mail-order. So for that reason, I ask you to defeat the present motion and move to the Minority Report. Thank you.

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

Representative **CAMPBELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Even the State Police are against this. If it's stuff you can't find in a store, then the kids would get to it. I would request for a roll call.

Representative **CAMPBELL** of Newfield **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass** 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 Calais, Representative Perry.

Representative **PERRY**: Thank you, Madam Speaker. This bill, when brought forward, actually had two supporters that usually are against each other to do this. One of the big things in terms of delivery that they talked about was the ability to check ID, and that the mail people did not want to be able to do that, nor did they have the personnel or ability to do that. Also, it was really with all of the small stores. We did look at excluding cigars, not pipe tobacco, pipe tobacco is still available within stores, and that is the Minority Report. The Minority Report does have cigars excluded, but not pipe tobacco. I would say this brings this forward a lot further than even the committee wanted to see, and so I'm really going to ask that you support all of tobaccos not be ordered by the Internet because of the assurance that it will not go to our minors. Thank you.

The SPEAKER: The Chair recognizes the Representative from Mount Vernon, Representative Jones.

Representative **JONES**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise in support of this Majority Report. As you know, I've been a strong supporter of tobacco prevention use for a number of years in my

career and here in the Legislature. Preventing access to this product, which is the leading cause of death and disability and health care costs in our state, is a major public health intervention trying to help people to make choices not to access these products. Help us go a long way at addressing this health issue. I hope that you'll continue to do this, as we have in a number of public health areas, as far as setting up laws in our environment, not allowing smoking in public places and in our buildings, and increasing taxes on tobacco products. This is just one more step to help our children and our adults make better choices to protect their health. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Celli.

Representative **CELLI**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise today in favor of voting against this measure. Yes you have minors getting tobacco through mail-order, but are we again going to say well, let's not have any hatchets go through the mail-orders because minors might hurt themselves, or ammunition, or bow equipment. Where are we going to stop with making limits on mail-order and Internet buying? So I request that the members please vote against this measure.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Harvell.

Representative **HARVELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. It seems to me, after hearing the debate yesterday on wine, my how the times have changed. In the 19th century, when we set the three pillars that we all heard about so often that I wondered if I was in a dairy milk house in the State Legislature, the evil of the day was wine, alcohol; it was considered the sin of the age. Today we all wanted to have a drink yesterday, but now it's tobacco, and the only thing is that we might want to think about where that might be down the road when you make this vote.

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

Representative **VALENTINO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I am amazed, totally amazed from our debate yesterday, it's because I'm hearing that the mail does not have the capability to check IDs, to put them into the hands of minors. We heard yesterday that of course we have the capability to do this; that we don't want to put them in the hands of minors, but we did it yesterday; that adults have a right to have choices for things are not available in the State of Maine, but they have no right today. It was overwhelmingly passed yesterday, so I guess I'm just saying may I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **VALENTINO**: To the people on the committee, what has changed since yesterday that on the mail-orders, on the adult rights and everything else, because I opposed the bill yesterday and I honestly don't know how I'm going to vote on this bill based on the vote yesterday, because I opposed that and the same argument against this is what killed the bill yesterday. I wish somebody would answer the question: What changed since yesterday on mail-order?

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

The Chair recognizes the Representative from Wells, Representative Chase.

Representative **CHASE**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I had no intention originally of rising for this one, but I want you to hear the chip, chip, chip away. Our forefathers made the Constitution that

granted us a whole lot of freedom and that freedom meant the right to choose things. They considered adults perfectly capable of making decisions for themselves. But each day and each year, little by little, chip, chip, chip, freedoms are taken away all under the guise of a good thing for us. Well, you know what? I am an adult and I can choose what's good for me, and I can certainly try to choose what's good for my children. So I urge you today not let one more chip be taken away from our rights to choose. Thank you.

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

Representative **PERRY**: Thank you, Madam Speaker. What has changed since yesterday? Nothing. Cigarettes are not, not available throughout the state, they are all over, and the difficulty is US Postal Service is what does this. We were talking with wine about another service being used. This is common through the state. We have cigarettes all over the place. That is not an issue. As a matter of fact, the Maine Wholesalers and Grocers really strongly recommended that they have the ability to check ID and to ensure that it does not get sold to minors, and what they're requesting is that they have the ability to do that. In terms of the wines we were talking about wines that were not available. All of these things right now are available and they are available in your neighborhood. I ask that you pass the Ought to Pass Amendment.

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

Representative **HARLOW**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I have case law coming to us within the next half hour regarding this particular bill and defending the good Representative Valentino. It says you cannot use an ID or a driver's license as an ID if you're—and we'll see what it is, we'll have it in writing and have proof of it. I think we've got a couple of court dates that we just passed.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Lewin.

Representative **LEWIN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I'm one of four who was on the Minority Report here, and I think, like the good Representative, Representative Chase said, we just chip away and chip away and chip away at personal rights and freedoms and I think we've gone too far with this bill. I'm an old retailer with 45 years of experience in retail and managing inventory. I can tell you right now there aren't that many fine cigar shops in the State of Maine and, in most places, you'd have to travel quite a distance to get a really fine cigar if that is something you prefer to have. I can tell you those little shops aren't going to spend the amount of money that it would cost them to stock with cigars. So if you can't get them by mail and you have to travel 200, 300 or 400 miles to get them, you may well not decide to do that, but it's your right to have it. If you'd like to have a good cigar, you should be able to have them sent to you. And absolutely nothing changed since yesterday, so we need to be consistent here, in my view, and this bill needs to go away as it should have gone away in previous years. Thank you.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Harvell.

Representative **HARVELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. In answer to Representative Valentino's question, that's what I was posing. I mean the temperance movement of the late 19th century led to the Eighteenth Amendment, where it was the evil of the age. Today we're in an age where the discussion in the 19th century was every sin imaginable could be laced to alcohol.

You know, every health deficiency today, we argue, is going to be laced to tobacco. We haven't changed in the sense of what an adult's decision should be from yesterday, but the spirit of the age deems that one is acceptable and one is not, and I personally do find that acceptable.

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. 140

YEA - Adams, Beaudette, Beck, Berry, Blanchard, Blodgett, Boland, Bolduc, Briggs, Bryant, Butterfield, Cain, Campbell, Carey, Cohen, Connor, Crockett P, Dostie, Duchesne, Eaton, Eberle, Eves, Flemings, Flood, Gilbert, Giles, Goode, Harlow, Haskell, Hill, Hinck, Hogan, Hunt, Jones, Kent, Knapp, Knight, Kruger, Legg, Lovejoy, Magnan, Martin JL, Mazurek, Miller, Morrison, Nelson, Pendleton, Percy, Perry, Pieh, Pilon, Piotti, Pratt, Priest, Rankin, Rotundo, Sanborn, Smith, Stevens, Strang Burgess, Sutherland, Theriault, Treat, Trinward, Valentino, Wagner J, Watson, Welsh, Wheeler, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaudoin, Beaulieu, Bickford, Browne W, Burns, Casavant, Cebra, Celli, Chase, Clark H, Clark T, Cleary, Cornell du Houx, Crafts, Crockett J, Curtis, Cushing, Davis, Dill, Driscoll, Edgecomb, Finch, Fitts, Flaherty, Fletcher, Fossel, Gifford, Greeley, Hamper, Hanley, Harvell, Hayes, Innes Walsh, Johnson, Joy, Kaenrath, Lajoie, Langley, Lewin, MacDonald, Martin JR, McCabe, McFadden, McKane, McLeod, Millett, Nass, Nutting, O'Brien, Peoples, Peterson, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Rosen, Russell, Sarty, Saviello, Schatz, Shaw, Sirois, Stuckey, Sykes, Tardy, Thibodeau, Thomas, Tilton, Tuttle, Van Wie, Wagner R, Weaver, Willette.

ABSENT - Cotta, Cray, Webster.

Yes, 71; No, 77; Absent, 3; Excused, 0.

71 having voted in the affirmative and 77 voted in the negative, with 3 being absent, and accordingly the Majority Ought to Pass Report was **NOT ACCEPTED**.

Subsequently, on motion of Representative PERRY of Calais, the Minority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-438)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Monday, June 1, 2009.

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-418)** on Bill "An Act To Amend the Maine Condominium Act Regarding Liens"

(H.P. 663) (L.D. 961)

Signed:

Senators:

BLISS of Cumberland
HASTINGS of Oxford

Representatives:

PRIEST of Brunswick
CLEARY of Houlton
HILL of York
KRUGER of Thomaston
NASS of Acton
BEAULIEU of Auburn
CROCKETT of Bethel

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-419)** on same Bill.

Signed:

Senator:

HOBBINS of York

Representatives:

BRYANT of Windham
DILL of Cape Elizabeth
STEVENS of Bangor

Representative MITCHELL of the Penobscot Nation - of the House - supports the Minority **Ought to Pass as Amended by Committee Amendment "B" (H-419)** Report.

READ.

Representative PRIEST of Brunswick moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-442)** on Bill "An Act To Clarify the Beano and Bingo Laws as They Apply to Federally Recognized Indian Tribes"

(H.P. 371) (L.D. 526)

Signed:

Senators:

SULLIVAN of York
PLOWMAN of Penobscot
GOODALL of Sagadahoc

Representatives:

BEAULIEU of Auburn
CORNELL du HOUX of Brunswick
PINKHAM of Lexington Township
TRINWARD of Waterville
TUTTLE of Sanford
FITTS of Pittsfield
CAREY of Lewiston
NASS of Acton
RUSSELL of Portland

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Representative:

VALENTINO of Saco

READ.

On motion of Representative TRINWARD of Waterville, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-442)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Monday, June 1, 2009.