

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

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

**Daily Edition**

**First Regular Session**  
beginning December 3, 2014  
beginning at page H-1

83 having voted in the affirmative and 63 voted in the negative, with 5 being absent, and accordingly the Minority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

## SENATE PAPERS

### Non-Concurrent Matter

Bill "An Act To Require the Use of Preapproved Subcontractors for Publicly Funded Construction Projects"

(H.P. 176) (L.D. 244)

Majority (7) **OUGHT TO PASS AS AMENDED** Report of the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-395)** in the House on June 12, 2015.

Came from the Senate with the Minority (6) **OUGHT NOT TO PASS** Report of the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ACCEPTED** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

## REPORTS OF COMMITTEE

### Divided Report

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-428)** on Bill "An Act To Protect Children and the Public from Electronic Cigarette Vapor"

(H.P. 769) (L.D. 1108)

Signed:

Senator:

HASKELL of Cumberland

Representatives:

GATTINE of Westbrook

BURSTEIN of Lincolnville

HAMANN of South Portland

HYMANSON of York

PETERSON of Rumford

STUCKEY of Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-429)** on same Bill.

Signed:

Senators:

BRAKEY of Androscoggin

McCORMICK of Kennebec

Representatives:

HEAD of Bethel

MALABY of Hancock

SANDERSON of Chelsea

VACHON of Scarborough

### READ.

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

Representative ESPLING of New Gloucester **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 PRO TEM**: The Chair recognizes the Representative from Lincolnville, Representative Burstein.

Representative **BURSTEIN**: Thank you, Mr. Speaker, Ladies and Gentlemen of the House, I'd like to speak to you about LD 1108, An Act To Protect Children and the Public from Electronic Cigarette Vapor. This bill restricts electronic smoking devices from use in public places. Using E-cigarettes, which is what they're commonly called, it's called vaping, and as the name implies, vaping gives off vapors. This is a matter of public health. Vaping, at present, has not been placed under our public smoke-free status. This bill will bring clarity to an uncertainty—and let me underline "uncertainty"—about what products may or may not be used in public and private work settings.

Evidence shows that E-cigarettes are healthier than regular cigarettes, yes, but that in no way means that they're healthy themselves. There's absolutely no evidence that use and breathing of E-cigarette vapor is at all safe. For example, an article published in the *New England Journal of Medicine* on January 22, 2015, was entitled, "Hidden Formaldehyde in E-Cigarettes." According to this article, electronic cigarettes may contain a high concentration of formaldehyde, a known carcinogen. Studies have found that E-cigarette vapors contain—in addition to formaldehyde—benzene, tobacco-specific nitrosamines, propylene glycol, and airborne nicotine.

Portland has banned E-cigarettes in public places. That makes Portland the 275th city or county in the US to take action. This is a clear and concise way to deal with a problem that is growing exponentially. Opponents of this bill said, "Towns and cities can do this on their own," but according to the American Lung Association, this path has been tried when it came to E-cigarettes' big and very ugly big brother: regular cigarettes. As we all know, that approach failed miserably and led to countless deaths.

If this bill doesn't pass, I can see situations like this happening all over our state. Now, we heard about a lot of people's mothers and fathers today. Imagine a woman like my mom who's 83, who's very kind, soft-spoken, still is a nurse for over 50 years, going to a table where someone is vaping, saying, "Would you please stop?" She wouldn't do it. Would a mother with her children having lunch next to a table of men, would she feel comfortable saying something like that to them? Maybe, but chances are probably not. What about sitting on the bleachers at your son's soccer game and someone next to you is vaping, vapors trailing all over you and your family. Do we know that the vapors are safe? Absolutely not. Do we know that the vapor contains any harmful chemicals? Yes, we do.

In addition, our youths are being targeted. Children are watching adults use these products and mimicking our actions. They see an adult or a teen using an electronic cigarette and they want to do it as well. The increased use in teens stresses the need for this bill. Teens are being seduced by the lure of a sexy, techie item. Use of E-cigarettes among high school students has tripled from 2011 to 2013.

More than a quarter of a million kids who have never smoked a cigarette before used an E-cigarette. What's worse, studies have found that youth who have never smoked conventional cigarettes, but used E-cigarettes, were twice as likely to smoke conventional cigarettes than those who never used an E-cigarette. Do you know what that means? It means lung cancer, COPD, emphysema. It means health costs skyrocketing for those individuals and it means long and horrible deaths.

Please, Mr. Speaker, Ladies and Gentlemen, we cannot afford to take a step back down the road of glamorizing the art of smoking. We must do our best to protect the safety of the public. Sorry, it just seems a little noisy in here, Mr. Speaker.

The SPEAKER PRO TEM: The Member will defer. The House is in Order. The Member may proceed.

Representative **BURSTEIN**: Thank you, Mr. Speaker. We need Maine to follow well-accepted principles in policy making when it comes to health issues. That is, when no final argument exists about the cause and effect relationship of a substance, but where there is a demonstrated real possibility that this substance can't damage people, reasonable steps should be taken to minimize and reduce that risk in advance. That means, Ladies and Gentlemen, that we protect the public when evidence is there and growing before we cause harm, long-term harm.

Let me finish today and let you know just few of those who are in favor of the bill: The Maine Public Health Association, the Cancer Society, American Academy of Pediatrics, Maine Nurse Practitioners Association. And that's just to name a few. Do you know who is against the bill? JR Reynolds Tobacco Company. Please don't let big tobacco companies determine the health of you and your children. I want to thank you for listening, Mr. Speaker. Thank you, Ladies and Gentlemen of the House.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Chelsea, Representative Sanderson.

Representative **SANDERSON**: Thank you, Mr. Speaker, Ladies and Gentlemen of the House, it never ceases to amaze me that we endorse products that have harmful effects on individuals, such as vaccines, and we ignore them and then we come to the point where we have something that has no studies showing that it's harmful to anybody and we want to regulate it to death.

This would make this vapor cigarettes, E-cigs, subject to smoking laws and they would be disallowed anywhere where it's disallowed to smoke. This is not smoking. This is not smoking at all. I urge you to vote this down and then we can pass the Minority Report, which does take some small measures to stop it in hospitals, schools, and daycares. Let's not pass a broad law before we know we have to. Thank you.

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

Representative **CAMPBELL**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House, you know to vote on this bill here and when I hear in the same House, we're going to okay the smoking of marijuana, I couldn't because I'd be a hypocrite. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Daughtry.

Representative **DAUGHTRY**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER PRO TEM: The Representative may pose her question.

Representative **DAUGHTRY**: Can anyone answer what's contained within an E-cigarette or while vaping and what chemicals are within that cigarette?

The SPEAKER PRO TEM: The Representative from Brunswick, Representative Daughtry, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Lincolnville, Representative Burstein.

Representative **BURSTEIN**: Thank you, Mr. Speaker, what I've got from the *New England Journal of Medicine* in 2015, was that according to this article electronic cigarettes contain a high concentration of formaldehyde, a known carcinogen. Studies have found that E-cigarette vapors contain—in addition to formaldehyde—benzene, tobacco-specific nitrosamines, propylene glycol, and airborne nicotine. So, that's just what I got from that article. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair will remind all Members that using props during debate is not appropriate.

The Chair reminded members that no props were allowed during the floor debate.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Scarborough, Representative Vachon.

Representative **VACHON**: Thank you, Mr. Speaker, Ladies and Gentlemen of the House, I must confess, until I came here I had no idea what vaping is and I will tell you that I came 180 degrees on this topic. I thought it was another smoking product. We heard testimony from both sides, but the most compelling testimony were the three people that had come and had never testified before.

The three people came. One from Biddeford was a man who said, "I have tried to quit smoking for years and nothing worked. When I discovered vaping, I was able to quit smoking and I decided I wanted to help other people so I opened up a vape shop." And he has 100 regular customers that came in that are thrilled that they quit smoking. Another man was from Ellsworth who came with tears in his eyes saying, "Please, please, do not put this in the same category as smoking. I don't want to be considered a smoker anymore. I am so thrilled that I was able to quit thanks to vaping." And the third one was a man who opened up a vape shop in Portland. Being close to my district, I decided to go in and pay them a visit and what I learned is that there are all different degrees of vaping available. And you can vape with absolutely no nicotine.

People are thrilled that they're able to stop smoking. Please don't put this in a smoking category. The studies have not been done to show that it carries the same risks as smoking and I just thought I would share that experience with you. Thank you, Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Chelsea, Representative Sanderson.

Representative **SANDERSON**: I defer.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative Gattine.

Representative **GATTINE**: Thank you, Mr. Speaker, again, I want to clarify. Again, there's nothing in this bill that would impact the ability to go to or operate vape shops. Mr. Speaker, very briefly, we have a multi-billion dollar public healthcare crisis in this country right now because we failed to get ahead of the curve when it came to cigarettes. Let's not make that same mistake twice. This is a good bill and I would encourage people to vote for the motion on the floor. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from York, Representative Hymanson.

Representative **HYMANSON**: Thank you. Thank you, Mr. Speaker Pro Tem, Men and Women of the House, I went to a vape store because in Health and Human Services we did get a lot of testimony from people who had stopped cigarette smoking and were so happy about that. And I think that's a great thing. I think that's terrific.

So I went to a vape store and I tried them. I think we should all do this because it's legal and you should see what it's like. It's a whole culture. You can blow smoke rings with the vapor. You can get strawberry colored stuff to put in your vaporizer. You can get varying amounts of nicotine. And so, I think it's a wonderful thing to have as a substitute for cigarettes because cigarettes are so poisonous. This does have poisons of its own, but they may be less than cigarettes. So that's a wonderful thing.

However, I am very much in support of the Ought to Pass motion because I think it should be treated like a cigarette. And the reason I say that is because it has all of the actions and it mimics the actions of smoking and it reintroduces a smoking

culture. So, you have to light it up. You hold it in your hand. People who have a smoking addiction talk about the hundred different addictions that smoking has and this mimics all of them. You put it in your mouth. You draw it in. You blow out smoke. And for kids, that's a whole reintroduction of a culture that we have struggled so hard to get rid of.

This would put back "No Vaping" signs, vapor filled rooms, and young people seeing smoking-like behavior. I think it's a step backwards for me. So, while I approve of the idea of vaping for the reasons I said, I would like them to be treated in the same way that cigarettes are. Thank you.

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

#### ROLL CALL NO. 256

YEA - Alley, Babbidge, Bates, Beavers, Beck, Beebe-Center, Blume, Brooks, Bryant, Burstein, Chace, Chapman, Chenette, Chipman, Cooper, Daughtry, Davitt, DeChant, Devin, Dion, Doore, Duchesne, Dunphy M, Evangelos, Farnsworth, Fowle, Frey, Gattine, Gideon, Gilbert, Gillway, Golden, Goode, Grant, Grohman, Guerin, Hamann, Harlow, Herbig, Hickman, Hobbins, Hogan, Hubbell, Hymanson, Jorgensen, Kinney M, Kornfield, Kruger, Kumiega, Lajoie, Longstaff, Luchini, Martin J, Martin R, Mastraccio, McCabe, McCreight, McLean, Melaragno, Monaghan, Moonen, Morrison, Nadeau, Noon, Peterson, Picchiotti, Pierce T, Pouliot, Powers, Rotundo, Rykerson, Sanborn, Saucier, Schneck, Seavey, Shaw, Sherman, Short, Stanley, Stuckey, Tepler, Tipping-Spitz, Tucker, Verow, Wallace, Ward, Warren, Welsh, White, Mr. Speaker.

NAY - Austin, Battle, Bickford, Black, Buckland, Campbell J, Campbell R, Corey, Crafts, Dillingham, Dunphy L, Edgecomb, Espling, Farrin, Foley, Fredette, Gerrish, Ginzler, Greenwood, Hanington, Hanley, Hawke, Head, Higgins, Hilliard, Hobart, Kinney J, Lockman, Long, Lyford, Maker, Malaby, McClellan, McElwee, Nutting, O'Connor, Parry, Pickett, Pierce J, Prescott, Reed, Russell, Sanderson, Sawicki, Sirocki, Stearns, Stetkis, Sukeforth, Timberlake, Timmons, Tuell, Turner, Vachon, Wadsworth, Winsor, Wood.

ABSENT - Fecteau, Herrick, Marean, Skolfield, Theriault.

Yes, 90; No, 56; Absent, 5; Excused, 0.

90 having voted in the affirmative and 56 voted in the negative, with 5 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-428) was READ** by the Clerk and **ADOPTED.**

Under suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading.**

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-428)** and sent for concurrence.

#### ENACTORS Acts

An Act To Prohibit a Person Convicted of a Crime of Domestic Violence from Possessing a Firearm for a Period of 5 Years and To Better Align Maine Law with Federal Law Regarding Persons Prohibited from Possessing Firearms

(H.P. 413) (L.D. 600)

(C. "A" H-389)

An Act To Manage Risks Associated with the Installation of Natural Gas Pipelines

(H.P. 775) (L.D. 1124)

(C. "A" H-406)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

#### Resolves

Resolve, To Develop a Pilot Program for Medication-assisted Recovery in a Rural Community at least 30 Miles from Bangor

(S.P. 193) (L.D. 524)

(C. "A" S-203)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (12) **Ought to Pass as Amended by Committee Amendment "A" (H-414)** - Minority (1) **Ought Not to Pass** - Committee on **JUDICIARY** on **RESOLUTION**, Proposing an Amendment to Article X of the Constitution of Maine Regarding the Publication of Maine Indian Treaty Obligations

(H.P. 612) (L.D. 893)

Which was **TABLED** by Representative BEAR of the Houlton Band of Maliseet Indians pending **ACCEPTANCE** of either Report.

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

The Resolution was **READ ONCE. Committee Amendment "A" (H-414) was READ** by the Clerk and **ADOPTED.**

Under suspension of the rules, the Resolution was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading.**

Representative BEAR of the Houlton Band of Maliseet Indians **PRESENTED House Amendment "A" (H-434)**, which was **READ** by the Clerk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from the Houlton Band of Maliseet Indians, Representative Bear.

Representative **BEAR**: Thank you, Mr. Speaker, Ladies and Gentlemen of the House, I rise in support of this amendment. As part of its agreement to separate and become a distinct political entity from the Commonwealth of Massachusetts, the negotiators for Maine statehood agreed to assume all of the duties and obligations held by the Bay State towards the Indians in the former District of Massachusetts. The acceptance of these duties and obligations became part of the original Maine Constitution of 1820. No Maine duty or obligation could receive higher legal recognition.

In 1875, however, a Resolve concerning an amendment of the Constitution of Maine directed, in part, that Article X, Section 5 no longer be printed in future editions of the Maine Constitution. The Resolve also states that Article X, Section 5 should remain fully in effect. The Maine Indian Tribal State Commission has not found, and neither have I, the reasons for this 1875 amendment prohibiting the printing of that part of the Maine Constitution that deals with Indians and Indian treaties. But we do know that in 2015, this action unnecessarily renders invisible to the readers of the Maine Constitution, the state's legal duties and obligations to