

# MAINE STATE LEGISLATURE

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Senate Legislative Record

One Hundred and Twenty-Seventh Legislature

State of Maine

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beginning at Page 1

Accept the Minority Ought Not to Pass Report, in Non-Concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#272)**

YEAS: Senators: BRAKEY, BURNS, COLLINS, DAVIS, EDGECOMB, HAMPER, LANGLEY, MASON, MCCORMICK, MIRAMANT, WHITTEMORE, WILLETTE, THE PRESIDENT - MICHAEL D. THIBODEAU

NAYS: Senators: ALFOND, BAKER, BREEN, CUSHING, CYRWAY, DIAMOND, DILL, DUTREMBLE, GERZOFKY, GRATWICK, HASKELL, HILL, JOHNSON, KATZ, LIBBY, MILLETT, PATRICK, ROSEN, SAVIELLO, VALENTINO, VOLK, WOODSOME

13 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion by Senator **BRAKEY** of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**, **FAILED**.

The Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-426) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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**Divided Report**

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Allow a Patient To Designate a Caregiver in the Patient's Medical Record"

H.P. 447 L.D. 666

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-432)**.

Signed:

Senators:

HASKELL of Cumberland  
McCORMICK of Kennebec

Representatives:

GATTINE of Westbrook  
BURSTEIN of Lincolnville  
HAMANN of South Portland  
HEAD of Bethel

HYMANSON of York  
MALABY of Hancock  
PETERSON of Rumford  
SANDERSON of Chelsea  
STUCKEY of Portland  
VACHON of Scarborough

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-433)**.

Signed:

Senator:

BRAKEY of Androscoggin

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-432)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-432)**.

Reports **READ**.

On motion by Senator **BRAKEY** of Androscoggin, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-432)** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-432) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-432)**, in concurrence.

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All matters thus acted upon were ordered sent down forthwith for concurrence.

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**Divided Report**

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Protect Children and the Public from Electronic Cigarette Vapor"

H.P. 769 L.D. 1108

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-428)**.

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

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "B" (H-429)**.

Signed:

Senators:

BRAKEY of Androscoggin  
McCORMICK of Kennebec

Representatives:

HEAD of Bethel  
MALABY of Hancock  
SANDERSON of Chelsea  
VACHON of Scarborough

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-428)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-428)**.

Reports **READ**.

Senator **BRAKEY** of Androscoggin moved the Senate **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-429)** Report, in **NON-CONCURRENCE**.

On motion by Senator **HASKELL** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Haskell.

Senator **HASKELL:** Thank you very much, Mr. President. Ladies and gentlemen of the Senate, Committee Amendment "B" speaks about the protection of children in the public from electronic cigarette vapor which includes nicotine in it that's not just a harmless water vapor. Amendment "B" is restricted to only three locations. That would be hospitals, schools, and daycares. I believe that's a very limited number of places where we would want to be able to go without having nicotine smoke blown in our faces or available for our children to breathe. I would respectfully request that you reject Report "B" so we can move on to Report "A" and we can discuss where those electronic nicotine delivery devices should be used besides hospitals, schools, and daycares. Thank you.

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

Senator **BRAKEY:** Thank you, Mr. President. I rise in support of the pending motion. As my colleague from Cumberland has

pointed out, this report would restrict the use of electronic nicotine delivery devices, also known as E-cigarettes, in hospitals, schools, and daycares. There was some desire to go further than that, however, the testimony that represented the evidence we were presented with about potential dangers on this was not very conclusive. We were not presented with any very conclusive evidence on that. In fact, it was presented to us in the regard of, "Well, you have to prove to us that it's not dangerous." If anyone has taken Logic 101, you can't prove a negative. The burden of proof is on the side who wants to essentially ban this in many locations to demonstrate that there is real, scientifically proven harm. That was not demonstrated.

We did feel comfortable, however, considering that to move forward with three places that are particularly acute situations: hospitals, schools, and daycares. We did feel comfortable going forward with a policy to restricting those places, but, jumping forward without sufficient scientific evidence demonstrating harmfulness, we did not feel comfortable setting a blanket policy for everything. I encourage the passage of the current Ought to Pass as Amended Report.

**THE PRESIDENT:** The Chair recognizes the Senator from Sagadahoc, Senator Baker.

Senator **BAKER:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise today to urge you to vote against the current motion and support an Ought to Pass as Amended by Committee Amendment "A" motion. I respect personal choice. I respect personal rights. I recognize that the E-cigarettes have been an incredible asset with regard to smoking cessation. However, as an asthmatic and a COPD patient, I cannot support someone else's choice, someone else's right, and putting my life at risk and putting the lives of other people at risk. E-cigarettes are not regulated and they have been shown to contain numerous chemicals which can be hazardous. The vapor is going to be reactive for some people and not others. Many individuals with already compromised health are affected by these aerosol compounds. Additionally, asthma is seriously affected by anxiety and stress, particularly in children. The mere sight of an E-cigarette and its vapor can have enormous effects on someone with asthma. How will that vapor affect me? What will the effects be? How severe will my attack be? Will my rescue inhaler be enough to help me? What is potentially harmful to many of you is definitely harmful to many people like me. I ask you to ban these E-cigarettes in all places where cigarettes are banned. I strongly urge you to vote against the current motion. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Piscataquis, Senator Davis.

Senator **DAVIS:** Thank you, Mr. President. First, Mr. President, I believe the board is showing that Report "A" is being moved and I believe it's Report "B".

Smoking bothers me an awful lot. When I got out of the Army in 1968 I was smoking three packs a day. I went cold turkey to get out of it. Unfortunately, my brother and my father didn't and they both died of lung cancer, my brother very recently. I was here in this Body when a bill came in to ban smoking in restaurants and I voted for it. It didn't endear me to some restaurant owners very much, but the cooks, the waiters, the waitresses, the dishwashers; I had a number of them call me and thank me for doing it. One of the reasons why I did it, and why I

voted that way, was because children go to restaurants. They don't have any choice. The parents take them there. Reading this handout from the Cancer Action Network seems to me, if you read it, there's a bunch of things in these things that aren't very good. I guess I would urge you all to vote against the pending motion and pass Report "A". Thank you, Mr. President.

**THE PRESIDENT:** Just a clarification. The board is correct. It is the Minority Report that we are voting on. It is Report "B". The board is correct. The Chair recognizes the Senator from Kennebec, Senator Cyrway.

Senator **CYRWAY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise before you in opposition to the pending motion. We're here to ensure that we pass laws that keep our constituents and general public safe. This is why we impose laws such as speed limits and other laws. This bill before you is one that will aide in public safety. I think we can do better than the current amendment under discussion. We have already banned the use of cigarettes in public places because they have been proven to be unhealthy to those exposed to secondhand smoke. The chemicals used in E-cigarettes are quite disturbing. This list includes Propylene Glycol, nicotine, certain metals, volatile organic compounds among others. The effects of these chemicals on the user and any bystanders are continuously being studied. A 2009 study done by the FDA found cancer causing substances in several of the E-cigarette samples tested. This is disturbing considering that E-cigarettes are currently allowed in public places. As a concerned citizen of this great state, I want to be able to go to a restaurant with my family and not be exposed to a dangerous substance. As a legislator, I want to pass legislation that will help in keeping my constituency healthy and safe. Teenage use has grown three times in the last few years due to E-cigarettes being introduced. For these reasons, I urge you to follow my light when voting on L.D. 1108. Thank you, Mr. President.

**THE PRESIDENT:** The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Brakey to Accept the Minority Ought to Pass as Amended by Committee Amendment "B" (H-429) Report, in Non-Concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

#### ROLL CALL (#273)

**YEAS:** Senators: BRAKEY, CUSHING, EDGECOMB, HAMPER, MASON, MCCORMICK, WILLETTE, WOODSOME

**NAYS:** Senators: ALFOND, BAKER, BREEN, BURNS, COLLINS, CYRWAY, DAVIS, DIAMOND, DILL, DUTREMBLE, GERZOFISKY, GRATWICK, HASKELL, HILL, JOHNSON, KATZ, LANGLEY, LIBBY, MILLETT, MIRAMANT, PATRICK, ROSEN, SAVIELLO, VALENTINO, VOLK, WHITTEMORE, THE PRESIDENT - MICHAEL D. THIBODEAU

8 Senators having voted in the affirmative and 27 Senators having voted in the negative, the motion by Senator **BRAKEY** of Androscoggin to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-429)** Report, in **NON-CONCURRENCE, FAILED**.

The Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-428)** Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-428) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-428)**, in concurrence.

#### Divided Report

The Majority of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Allow Grocery Stores under 10,000 Square Feet To Be Open on Sundays"

H.P. 589 L.D. 855

Reported that the same **Ought to Pass**.

Signed:

Senators:

VOLK of Cumberland  
CUSHING of Penobscot

Representatives:

AUSTIN of Gray  
LOCKMAN of Amherst  
STETKIS of Canaan  
WARD of Dedham  
CAMPBELL of Newfield

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Senator:

PATRICK of Oxford

Representatives:

HERBIG of Belfast  
BATES of Westbrook  
FECTEAU of Biddeford  
GILBERT of Jay  
MASTRACCIO of Sanford

Comes from the House with the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.