

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Eighth Legislature

State of Maine

Daily Edition

First Regular Session
beginning December 7, 2016

beginning at Page 1

ROLL CALL (#127)

YEAS: Senators: BRAKEY, COLLINS, CUSHING, CYRWAY, DAVIS, DIAMOND, DOW, HAMPER, HILL, KATZ, KEIM, LANGLEY, MAKER, ROSEN, SAVIELLO, VOLK, WHITTEMORE, WOODSOME, PRESIDENT THIBODEAU

NAYS: Senators: BELLOWS, BREEN, CARSON, CHENETTE, CHIPMAN, DESCHAMBAULT, DILL, GRATWICK, JACKSON, LIBBY, MILLETT, MIRAMANT, VITELLI

EXCUSED: Senators: CARPENTER, DION, MASON

19 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 3 Senators being excused, the motion by Senator **LANGLEY** of Hancock to **ACCEPT** Report "**B**" **OUGHT NOT TO PASS**, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (5/4/17) matter:

SENATE REPORTS - from the Committee on **TRANSPORTATION** on Bill "An Act Making Supplemental Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2017" (EMERGENCY)

S.P. 341 L.D. 1034

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-34)** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-35)** (5 members)

Tabled - May 4, 2017, by Senator **COLLINS** of York

Pending - **FURTHER CONSIDERATION**

(In Senate, April 27, 2017, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-35)**.)

(In House, the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-34)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-34)** in **NON-CONCURRENCE**.)

On motion by Senator **COLLINS** of York, the Senate **INSISTED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (5/4/17) matter:

HOUSE REPORTS - from the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Establish a Conditional Presumption of Compensability for Corrections Employees in Cases of Impairment from Hypertension or Heart Disease" H.P. 557 L.D. 777

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-81)** (6 members)

Tabled - May 4, 2017, by Senator **VOLK** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in concurrence

(In House, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in concurrence.)

On motion by Senator **VOLK** of Cumberland, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (5/4/17) matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Promote Equity in Business Opportunity for Tobacco Specialty Stores" S.P. 13 L.D. 34

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-63)** (6 members)

Tabled - May 4, 2017, by Senator **BRAKEY** of Androscoggin

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report

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

Senator **CHIPMAN:** Thank you, Mr. President. I would urge the Body to join me in opposing this pending motion. This bill is a perennial bill that's at us in the past. We've defeated it before and we'll defeat it again. This bill would, essentially, allow smoking in bars, which we've already gotten rid of in the past. It would allow bars to come into a smoking environment, where we have these special tobacco and cigar shops. There are very few of them in the state that exist where folks can taste the tobacco, can try a cigar, in these limited locations and this would allow them to open, essentially, a bar, serve alcohol and other non-alcoholic beverages in the establishment. I just think it's not a road that we

should go down at this point. We've come very far in public health and with smoking laws in the State of Maine and, to me, this takes us backwards. It basically would, in my mind as I saw it in the committee and the hearing, make the consumption of tobacco more attractive by allowing alcohol to be paired with it. Something else people like to be paired with it. I don't want to make tobacco more attractive and I saw no evidence that tobacco, specialty tobacco, or cigars are any safer than cigarettes. They're just as unhealthy as cigarettes are and, furthermore, I would add that the bill, as amended out of the committee, has several flaws. As amended from the committee, it would allow vaping, e-cigarettes, and marijuana because that's not excluded in this bill. As amended it sets up a new framework for this to be able to exist and, furthermore, it could allow folks under 21 to enter if they choose not to serve alcohol and they serve non-alcoholic beverages. Those under 21 would also be able to enter the environment where tobacco is being consumed. So I urge you to vote with me and oppose this motion. Thank you.

On motion by Senator **LIBBY** of Androscoggin, 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 Androscoggin, Senator Brakey.

Senator **BRAKEY:** Thank you, Mr. President. I rise in support of the motion in front of us. First of all let me say, and I can contest a few things that my good colleague from Cumberland County suggested. First let me start, this bill would simply allow tobacco specialty stores to be licensed as a cigar lounge which may serve alcoholic or non-alcoholic beverages, but this does not make this place a bar. There are specific requirements in place that 60% of all sales must come from tobacco products. If 60% of your sales are coming from tobacco products than your purpose is not serving alcohol, your purpose is serving these other products and those are just a side feature. Currently in Maine the people of Maine who are looking for the service have to drive to New Hampshire, and they do. They go to New Hampshire, they patronize New Hampshire businesses and New Hampshire people benefit from this. This would simply allow our small businesses to benefit and I have to strongly contest an assertion made by my colleague. We specifically put in this amendment, the amendment to the bill, that no one under the age of 21 would even be allowed to set foot in this establishment. So I don't know where my colleague is getting that information from, but that was specifically provided for. As for other concerns about loopholes that may exist on this thing being served there or that thing being served there, I'll just say those concerns were not raised in the public hearing or the work session. If those are legitimate concerns we can very easily put a floor amendment to address those concerns. That's not any reason to throw out the whole bill. I will say, finally, we're talking about adults. We're talking about adults over the age of 21. Do we really have nothing better to do in government than micromanage and tell adults what their own personally choices they can make are for their own life? I don't like smoking. I don't smoke. I caution my friends and family not to smoke, but it's not my right, in government, to tell adult citizens what their personal choices need to be in regards to this. So I would suggest we pass this motion and let's allow Maine businesses to see some of the revenues from this and not send

people across the border to New Hampshire. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Cyrway.

Senator **CYRWAY:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I concur with my fellow Senator Chipman. This is a step backwards and this would start us going into smoking in bars and possible smoking marijuana in bars. For the people that don't want to inhale the smoke, there are rights there as well. I think that we've made great strides through the years and we're regressing with this bill. So I hope you follow my light. Thank you.

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

Senator **CHIPMAN:** Thank you, Mr. President. I just wanted to point out a couple of things. Regarding the 60% - 40% split, there is language in there that requires 60% of sales from tobacco and 40% from liquor, but if a business does not meet that criteria in a given year you can bet they're going to be here asking us to change that so that they can remain open and keep selling liquor and alcohol at whatever rates they'd like to do that. To me it just sends us down a slippery slope when we've come so far in public health and with tobacco and whether we want to sort of promote tobacco or not. I see this as promoting tobacco, as I said before, because it allows something else that people like to do, which is consume alcohol, to be paired with tobacco in the same place. Thank you.

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

Senator **BRAKEY:** Thank you, Mr. President. I apologize for rising a second time. My final thought on this, I just want to share a quick quote from a writer I think we all know named C.S. Lewis. He once wrote, and I think it's very applicable to this situation and many situations we find before us: "Of all tyrannies a tyranny sincerely exercised for the good of its victims may be the most oppressive. It would be better to live under robber barons than under omnipotent moral busybodies. The robber baron's cruelty may sometimes sleep, his stupidity may at some time at some point be satiated, but those who torment us for our own good will torment us without end for they do so with the approval of their own conscience." 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 Report. 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 (#128)

YEAS: Senators: **BRAKEY, CHENETTE, CUSHING, HAMPER, MIRAMANT, SAVIELLO, WOODSOME**

NAYS: Senators: BELLOWS, BREEN, CARSON, CHIPMAN, COLLINS, CYRWAY, DAVIS, DESCHAMBAULT, DIAMOND, DILL, DOW, GRATWICK, HILL, JACKSON, KATZ, KEIM, LANGLEY, LIBBY, MAKER, MILLETT, ROSEN, VITELLI, VOLK, WHITTEMORE, PRESIDENT THIBODEAU

EXCUSED: Senators: CARPENTER, DION, MASON

7 Senators having voted in the affirmative and 25 Senators having voted in the negative, with 3 Senators being excused, the motion by Senator BRAKEY of Androscoggin to ACCEPT the Minority OUGHT TO PASS AS AMENDED Report FAILED.

The Majority OUGHT NOT TO PASS Report ACCEPTED.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (5/4/17) matter:

SENATE REPORTS - from the Committee on HEALTH AND HUMAN SERVICES on Bill "An Act To Prioritize Use of Available Resources in General Assistance Programs" S.P. 65 L.D. 219

Majority - Ought Not to Pass (7 members)

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-62) (6 members)

Tabled - May 4, 2017, by Senator BRAKEY of Androscoggin

Pending - motion by same Senator to ACCEPT the Minority OUGHT TO PASS AS AMENDED Report

On motion by Senator CUSHING of Penobscot, TABLED until Later in Today's Session, pending the motion by Senator BRAKEY of Androscoggin to ACCEPT the Minority OUGHT TO PASS AS AMENDED Report.

The Chair laid before the Senate the following Tabled and Later Assigned (5/4/17) matter:

SENATE REPORTS - from the Committee on HEALTH AND HUMAN SERVICES on Bill "An Act To Align Time Limits in the Municipal General Assistance Program and Temporary Assistance for Needy Families Program" S.P. 66 L.D. 220

Majority - Ought Not to Pass (7 members)

Minority - Ought to Pass as Amended by Committee Amendment "A" (S-61) (6 members)

Tabled - May 4, 2017, by Senator BRAKEY of Androscoggin

Pending - motion by same Senator to ACCEPT the Minority OUGHT TO PASS AS AMENDED Report

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

Senator CHIPMAN: Thank you, Mr. President. Ladies and gentlemen of the Senate, this bill would align the General Assistance Program with the Temporary Aid for Needy Families Program 60 month lifetime limit. In committee we heard that this really only impacts so few people that go and get General Assistance after a 60 month lifetime usage that it would only impact really families with minor children and some of the most disabled citizens in our state. It's something I'd like to leave up to the discretion of the local G.A. administrators and not have a statewide law that imposes this limit on the folks that are truly the most needy among us. I guess I'd just like to make a point about this bill as well. This bill does absolutely nothing to provide job training for anybody. It doesn't help anybody gain employment. This bill does nothing to improve anybody's economic situation. Those are really the issues we ought to be talking about here in this Chamber, in my opinion, and work with, as opposed to sort of perennial bills like this. I hope you will join me in opposing the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Bellows.

Senator BELLOWS: Thank you, Mr. President. Ladies and gentlemen of the Senate, I do support welfare reform. I've talked with my constituents about it. I will be supporting bills that prioritize the use of our General Assistance program and make needed reforms, but I'm very concerned, and will oppose the pending motion, that L.D. 220 is poorly drafted. An attorney testified at the public hearing that this could open up the State to lawsuits under the Americans With Disabilities Act in Section 504 of the Rehabilitation Act. I'm mostly concerned about the municipal mandates. I think local control is extraordinarily important. I think opening the State up to hundreds of thousands of dollars in potential legal costs because of litigation is unwise. I think there are better ways to go about this and I will be voting against the pending motion.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Thank you, Mr. President. Men and women of the Senate, I, too, rise in opposition to the pending motion because, as I understand it, the following fact pattern would result in denial of benefits. Somebody's on TANF for 5 years, is off and goes out and gets a job and is doing real well, and then some other life tragedy befalls them and they find themselves again destitute through no fault of their own, and this bill, if it were to pass, as I understand it, would make them ineligible at that point for General Assistance if that second event had happened within five years. I think we can all think of circumstances where the impact of this bill would be tremendously unfair and will oppose the motion. Thank you.