

# MAINE STATE LEGISLATURE

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**House Legislative Record**  
of the  
**One Hundred and Eighteenth Legislature**  
of the  
**State of Maine**

**Volume II**

**First Special Session**

May 16, 1997 - June 20, 1997

**Second Regular Session**

January 7, 1998 - March 18, 1998

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. This bill is not needed. Currently, I believe, it is sufficient as the law states now. If we were to enact this legislation, yes, you would have to be a CPA upon being elected as State Auditor. It doesn't say that you have to wait until you are actually sworn in. That, I believe, limits the pool of perspective candidates. It repeals the section regarding that this person have a CIA, certified internal auditor, or a public accountant. This will limit that pool in terms of candidates of which they could be prospects of being chosen or elected as a State Auditor. I believe, in written testimony given to the State and Local Government Committee from Carol Lactoe, who is the Director of Audit within the Department of Audit. She states, "The role of the State Auditor is to oversee and direct the work of the department, including serving as a liaison to the Legislature. In addition to understanding about auditing, the State Auditor must have management skills and understanding of and interest in state government environment. Simply because an individual is a CPA provides no assurance that the individual has any understanding of the specialized requirements of a government audit, any management skills or any ability to communicate with the elected representatives of the people who we serve." I believe that statement stands correct and I ask you to accept the "Ought Not to Pass" report.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Kasprzak.

Representative KASPRZAK: Madam Speaker, Men and Women of the House. I would have you notice that there are at least 11 states currently that require their auditors to be CPAs. Also, I might pose a question and that is how many CPAs are there in the State of Maine at this moment, if we are talking about making the pool smaller? Thank you.

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

A roll call has been ordered. The pending question before the House is acceptance of the Minority "Ought Not to Pass" Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 238**

YEA - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brooks, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Fuller, Gagnon, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bragdon, Brennan, Bruno, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Donnelly, Dutremble, Foster, Frechette, Gagne, Gerry, Gieringer, Goodwin, Gooley, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Bodwell, Buck, Dexter, Fisk, Gamache, Joyner.

Yes, 74; No, 71; Absent, 6; Excused, 0.

74 having voted in the affirmative and 71 voted in the negative, with 6 being absent, the Minority "Ought Not to Pass" Report was accepted and sent up for concurrence. Ordered sent forthwith.

The Chair laid before the House the following items which were tabled earlier in today's session:

An Act to Prohibit the Employment of Professional Strikebreakers (H.P. 88) (L.D. 113) which was tabled by Representative KONTOS of Windham pending reconsideration.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Samson.

Representative SAMSON: Madam Speaker, Men and Women of the House. This will be the last time that this bill will be before you. I will speak quickly on it. This is the professional strikebreaker bill. There is a law on the books now that has been on the book since 1965 that makes it illegal. It is a criminal offense to provide professional strikebreakers. The bill decriminalizes it so that we can bring civil action. It defines what a professional strikebreaker is. That is anyone that provides 100 or more strikebreakers three times in five years. It also exempts current employees, security and special maintenance. I urge you to vote to override the veto. Thank you.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Madam Speaker, Men and Women of the House. As I think nearly everyone in the House is aware, this has been ruled to be pre-empted by federal law by the Attorney General. Madam Speaker, I request the vote be taken by the yeas and nays.

Representative JOY of Crystal requested a roll call on reconsideration.

The Chair ruled that a roll call is required pursuant to the Constitution.

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

Representative SAXL: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative SAXL: Madam Speaker, Men and Women of the House. I am wondering whether all laborers in the State of Maine are covered by the National Labor Relations Act?

The SPEAKER: The Representative from Portland, Representative Saxl has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Jay, Representative Samson.

Representative SAMSON: Madam Speaker, Men and Women of the House. Not all workers in the State of Maine are covered under the National Labor Relations Act.

The SPEAKER: A roll call has been ordered. The pending question before the House is Shall this Bill become a law notwithstanding the objections of the Governor? All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 239V**

YEA - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Cameron, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kasprzak, Kerr, Kontos, Lane, LaVerdiere, Lemaire, Lemke, Lemont, Mailhot, Mayo, McKee, Meres, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perkins, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson,

Townsend, Tripp, Tuttle, Usher, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bragdon, Bruno, Bumps, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Desmond, Donnelly, Foster, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Kneeland, Labrecque, Layton, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McAlevey, McElroy, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Bodwell, Buck, Dexter, Fisk, Gamache, Joyner.

Yes, 87; No, 58; Absent, 6; Excused, 0.

87 voted in favor of same and 58 against, with 6 being absent, and accordingly the veto was sustained.

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An Act to Amend the Laws Regulating Occupational Therapy Practice (H.P. 1151) (L.D. 1616) (C. "A" H-282) which was tabled by Representative KONTOS of Windham pending passage to be enacted.

On motion of Representative KONTOS of Windham, tabled pending passage to be enacted and later today assigned.

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An Act to Prohibit the Inhaling of Toxic Vapors for Effect (H.P. 241) (L.D. 305) (C. "A" H-382) which was tabled by Representative KONTOS of Windham pending passage to be enacted.

On motion of Representative POVICH of Ellsworth, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby the Bill was passed to be engrossed.

On further motion of the same Representative, the rules were suspended for the purpose of further reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-382) was adopted.

The same Representative presented House Amendment "A" (H-546) to Committee Amendment "A" (H-382) which was read by the Clerk and adopted.

Representative PERKINS of Penobscot presented House Amendment "B" (H-571) to Committee Amendment "A" (H-382), which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Madam Speaker, Men and Women of the House. When I first saw this bill title, I thought it was finally a move to ban cigarette smoking. I am not sure that it doesn't the way it is worded. A ban on inhaling toxic vapors for effect. If that doesn't include smoking tobacco, I don't know what does, but anyway. My amendment simply limits this ban to juveniles. It limits the ban to people under 18. When I first asked the prime sponsor about this bill, I was told that it was her understanding that this was limited to juveniles. I talked with the good House Chair of the committee and I believe he said he thought it only applied to juveniles. I got a copy of the bill and the amendment and sure enough, it is everybody. I have never tried snuffing whatever this is, but the point is apparently the problem is with juveniles and that is what this amendment just limits to juveniles. Apparently it is not a problem with adults. We have enough laws on the books and none of us go back to our districts and hear people say to put on more laws, we need more laws. That is what this is. It limits it to juveniles. Thank you.

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

Representative MCALEVEY: Madam Speaker, Men and Women of the House. I urge you not to support my colleagues' amendment "B" because when we discussed the bill in committee, we were advised by the Attorney General's Office, as well as the Department of Corrections, that when you create a law that is a criminal offense for a child and not for an adult, that is considered a status offense. This Legislature since its inception of this government does not have status offenses on the books. We don't have a two-tier system. We do have offenses in the criminal code that deal with alcohol and marijuana with children and it makes it a civil offense if you are an adult. Those two items are specified and spelled right out in the juvenile code from the very beginning. To pass a law and say it is against the law for children to do it, but it is okay for adults is not a road we want to go down. We haven't done that in the 175 years we have been here. We, I think, really need to be considerate of that fact. I can understand the good representative's feeling about trying to limit this with children. I believe the bill came to us directly limiting it for children, but we were advised why we shouldn't go that route. I would ask you not to support Amendment "B."

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Madam Speaker, Men and Women of the House. Could anybody address Representative Perkins' concern, because when he brought it up, I now have that concern. Is there any guarantee from committee members that this language wouldn't include cigarette smoking?

The SPEAKER: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative POVICH: Madam Speaker, Men and Women of the House. The bill says to inhale, ingest, supply or sell gases, vapors or fumes of any gas, hazardous inhalant, substance containing a volatile chemical or substance containing chemical material and capable of releasing toxic vapors or fumes for the purposes of causing intoxication, euphoria, inebriation, excitement, stupefaction or the dulling of that brain or nervous system and others. I would further, if I may continue Madam Speaker. LD 305 came out as a unanimous "Ought to Pass" as amended report. The Committee Amendment represents the work of all interested parties, including Kevin Sweeney of the Cape Community Coalition. Representative Marvin brought Kevin Sweeney to our workshop and our public hearing. We were very impressed with what he had to say and the commitment that he has shown to this problem. Representative Marvin, from Cape Elizabeth, also brought us Dr. Anthony Thomason of the Maine Poison Center. There was no discussion about making this a juvenile violation or a crime only. The Committee Amendment puts violation in Title 22 along with civil violations, like possession of drug paraphernalia, which applies to juveniles and adults alike. Our floor amendment also provides sentencing options of treatment. The Committee Amendment is workable by making use or possession of toxic vapors or inhalants a civil violation instead of a crime like the original bill. It reduces the standard to a preponderance of the evidence. It is easy to prove and hence, does not require a violation. A violator to be provided an attorney or be sent to jail. Finally, well not exactly finally, I have one more point, there may be a large problem for juveniles, but this problem exists for