

# MAINE STATE LEGISLATURE

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**One Hundred and Eighteenth Legislature**  
**State of Maine**

**Volume 2**

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**January 7, 1998 to March 24, 1998**

**Pages 981 - 1977**

being used for a legitimate governmental purpose. That is what swayed myself and others on the Committee to recognize that it's the only fair and just thing to do, to grant, for that municipal purpose, a tax exemption. Consequently, I would ask that you vote for the Minority Ought to Pass as amended report. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Cathcart.

Senator **CATHCART:** Thank you Mr. President and men and women of the Senate. I rise to speak today on behalf of my constituents of the Penobscot Nation in favor of the Ought to Pass as amended report on this legislation. This is clearly used to provide municipal services as the good Senator, Senator Ruhlin, has told you. Going back to 1987 when the legislation passed to allow the Penobscot Nation to run a high-stakes Bingo, they have not had to pay sales tax on the goods purchased for that Bingo game. I have a letter here from former Senator Judy Kany to the Bureau of Taxation, dated 1992, stating the intent of the Legislature, as she understood it as Chair of the Legal and Veterans Affairs Committee when the legislation was put in place in 1987, that this was to be used for governmental services and was not taxable. The Penobscots already pay the state \$50,000 a year from their earnings, in lieu of taxes. The fiscal note on this bill is about \$2,800. It's very small. There is just no reason that I can see, when this has gone on for so many years with them not being taxed, for us to begin at this time to tax them. I think that we should accept the unanimous vote of the Maine Indian Tribal State Commission and Senator Ruhlin's report from the Taxation Committee and vote Ought to Pass as amended. Thank you Mr. President. Mr. President, when the vote is taken I ask for the yeas and nays, please.

On motion by Senator **CATHCART** of Penobscot, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

On motion by Senator **PINGREE** of Knox, **TABLED** until Later in Today's Session, pending the motion by Senator **RUHLIN** of Penobscot to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in concurrence. (Roll Call ordered)

The Chair laid before the Senate the following Tabled and Later (3/2/98) Assigned matter:

SENATE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Require Tobacco Manufacturers to Disclose Ingredients Contained within Tobacco Products" S.P. 508 L.D. 1570

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-473)** (5 members)

Tabled - March 2, 1998, by Senator **PINGREE** of Knox.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 2, 1998, Reports **READ**.)

Senator **PARADIS** of Aroostook moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President and men and women of the Chamber. This is a carry-over bill from last year. We carried it over pending the results of the suit that is presently going on in Massachusetts. They had passed this bill. The court date is in October. We feel that if Massachusetts is successful in winning their court case then the ingredients will be released to Maine also without us having to do anything further. We feel that this legislation is not necessary. Minnesota is the only other state that has passed such legislation that is not being contested presently, but they don't know how to implement it. We already know what the ingredients are. We're talking about ammonia, arsenic, formaldehyde, lead and benzene. What this bill is essentially asking is that we have the amounts. Most of the information is available. The federal level, the Secretary of Health, is privy to that information but is not dispensing it. The understanding there is, if there were something beyond then she would intervene. The majority of the Committee felt that this bill was not necessary at this time. Again, if the Massachusetts case is won by Massachusetts then we will be privy to all the information that will be available at that time. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you Mr. President and men and women of the Senate. The good Senator from Aroostook has given you a brief précis of the procedural history of this bill and some of it's analogues in other states. Just at risk of repeating what she said, originally in Massachusetts, a couple of years ago, there was a bill put forward that passed that required each cigarette manufacturer to disclose the substances, the ingredients, that are contained within their products. The reason for it was that the cigarette and tobacco industry is the only industry in the United States that is not required to make these disclosures available to the general public. Even Coca Cola and Pepsi Cola are required to disclose their ingredients. How they formulate them and how they make use of them, and so forth, may be a proprietary issue. Nevertheless, we know what those substances are and we know the relative quantities. In fact, in many products you can read it on the label.

The cigarette industry, because of their control over Congress, has been able to convince that body that the Food and Drug Administration is the only place where they need to disclose this information and, because it should be guarded as a trade secret, that it shouldn't be disclosed further. So if you or I, or any citizen of Maine, wants to know what's in a given cigarette product, you can't get that information. Even if you or some member of your family is a user of the product. Recently, in Massachusetts, they passed this law that said, please disclose this information to our health officials because the common wealth of Massachusetts is a sovereign entity. It has the burden of protecting the health and welfare of it's own citizens. Would you please tell us what's in these products so that we, too, can analyze the issue and make our own independent decision about how much our citizenry should know about these products? The bill passed. The cigarette industry sued and got a temporary

injunction against having to disclose. My understanding is that the people in Massachusetts have had some preliminary success but the matter is on appeal. There is further hearing in October. There is no guarantee, in my understanding, that anybody will know the answer in October. It may be quite awhile hence.

In the meantime, in Minnesota, the Legislature there, in its wisdom, passed a statute that said, well, if you won't tell us all of the ingredients that are in these products, perhaps you could tell us about these five? And they listed arsenic, ammonia, cadmium, formaldehyde and one other, as I recall. My understanding is that there has been a disclosure to the health authorities in Minnesota and they are evaluating that information, and they have found it extraordinarily interesting and enlightening. The bill that lies before you is very close to the Minnesota bill except that it contains 15 ingredients that are known to be in tobacco products and not merely the five that Minnesota mentioned in their statute. To my knowledge, the Minnesota statute was not challenged nor do I know of any good reason why it should be challenged. The people of Minnesota have a right to ask some simple questions of an industry that has a prevalent market presence within the borders of that state. And they have a right to know what's in these products. I believe that people of Maine have that same right.

I don't want to go into another discussion about the nature of cigarette smoking and the exposure of tobacco products, or how it kills 425,000 people a year, which is eight times more people than died in Vietnam, and all of that. We've heard it all before in this chamber, many times, and we get anesthetized by listening, I think, to these same statistics being brought to us over and over again. So let me make, if I could, one very simple point that perhaps you'll recognize as soon as I find myself into it.

The theme is this, if it weren't for little states like Maine asking some stupid little questions and demanding answers of this enormous, gargantuan industry, there would be no questions answered about this industry, because Congress, in recent decades, has been paralyzed by money. It was some Attorney General who decided that maybe it would be a good idea to get some of the Medicaid money back that his state government was expending because of exposure to cigarette smoke in tobacco. One state started it, another one joined in and then another, and then another, and finally, nearly all of them have come to the floor because there was such substantial justice to that cause. And where has Congress been while this movement has raged across the 50 states? Giving away \$50 billion tax breaks to this industry without a hearing. If it weren't for Senator Collins and Senator Snow from Maine, and others with a similar mind, the theft of that \$50 billion would have been successful. So Congress is paralyzed by money, by this industry. They are incompetent to act. If anyone is going to make a difference in getting answers to the important questions about this industry, it's behavior and how it manages this product, the impetus has to start in these chambers. The buck starts here. If it weren't for Legislators and Attorney Generals around the states, there would be nothing done on this important public issue.

There is no earthly reason, in policy, why the little state of Maine shouldn't, through its health officials, have a complete understanding about the quantities of these 15 ingredients within tobacco products that are sold and consumed in this state. There's no reason, in policy, why we shouldn't know this. If we had another industry in this state dumping arsenic, cadmium and formaldehyde into the Kennebec River, would we just sit back and say, well, that's got to be somebody else's problem? Maybe Congress will solve this problem for us, or maybe some

bureaucrat, somewhere, should pay attention to this problem? No, no, we wouldn't let that happen. We got all upset over color, odor and foam not too many years ago, let alone ammonia, arsenic, formaldehyde, cadmium and, Lord knows, what else. If we had an industry that was spewing these same ingredients into the air of this state, this chamber would be up in arms about it. We're up in arms about traces of mercury flowing across the banks of the Penobscot, over in Bangor.

We all know cigarettes are hazardous. We all know that they do harm. But you know, if it weren't for little states like Maine asking questions about the product, they would be in here today telling you that it's a harmless product. That it's safe to consume. Take a Lucky instead of a sweet, or whatever that old expression was. I would urge you to vote against, I believe, the pending motion and ask you to accept, later on, the Ought to Pass report so that the states in these United States can prove the value of federalism and prove that the states are relevant, to prove that a little state of Maine can be worthy of its motto. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Waldo, Senator Longley.

**Senator LONGLEY:** Thank you Mr. President and colleagues in the Senate. I urge a vote against the pending motion and would simply note that, interestingly, I have not been approached by the tobacco lobby on this issue. That means, to me, one of two things. Either I've trained them well to not bother, or this isn't an issue of dire concern for them. For me, it's a simple issue of letting the people of this state, probably, mostly the people who buy cigarettes in this state, the ability to know that there will be some cigarettes out there with more toxins than others. Namely, ammonia, arsenic, cadmium, formaldehyde, lead and benzene. These are toxins that I would think any consumer has a right to know about when they're deciding which brand of cigarettes to purchase. Not that I'm in any way promoting the purchasing of cigarettes. I'm simply promoting the consumer's right to know. Thank you.

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

**Senator NUTTING:** Thank you Mr. President and men and women of the Senate. I, like the good Senator from Somerset, Senator Mills, and the Senator from Kennebec, Senator Treat, filed very similar LR's last year and am very pleased to have Senator Mills be the lead sponsor of this bill. I want to talk to you today just a little bit about ingredients. I'm pointing out again that there's no other product, period, that we consume, that we don't know what the ingredients are, be they natural ingredients or added ingredients. I don't care if you're talking about, one that comes to mind, milk, or apple pie, or a brownie mix, or lasagna. I can't believe, first off, that I'm getting myself hungry. Seriously though, very seriously, I can't believe that if you, as a consumer, knew that cigarette brand X, from one year to the next, had increased their level by four times of arsenic in their cigarette so they became more addictive, that maybe that might decrease your appetite for smoking. From where I'm coming from, if this bill helps five or ten people to stop smoking then this is a victory. Studies have shown that children raised in families that smoke have a much higher percentage of going on to smoke themselves. This is a very reasonable request. I hope you will oppose the pending motion so that we can go on to support the

Minority Ought to Pass report. Mr. President, when the vote is taken, I request the yeas and nays. Thank you.

On motion by Senator **NUTTING** of Androscoggin, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

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Off Record Remarks

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**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President and men and women of the Senate. I, too, am speaking in opposition to the pending motion and have just a few comments. The cigarette companies have been concerned about being required to divulge trade secrets. There are something between 50 and 100 ingredients in cigarettes and we are asking them to disclose only the highly toxic substances and not all ingredients. I'd also like to say that I have reached the age where a little embalming preservative in my diet would not be all that bad a thing. It is doubly important to me that these ingredients are available so I can find a good source of embalming preservative to add to my diet. There are certainly plenty of days when rocket fuel is something that would probably enhance my performance in the Legislature and elsewhere. I think it's very important that we know that we have a source of ingesting ingredients such as rocket fuel and embalming preservatives. Therefore, I would urge you to defeat the pending motion and go on to pass the Minority report.

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

Senator **CLEVELAND:** Thank you Mr. President and men and women of the Senate. I rise today because I want to urge you, as well, to defeat this motion so that we can go on and pass this very essential bill. I see this bill, really, quite simply. It's a consumer's right to know bill, nothing more, nothing less. A consumer's right to know. Cigarettes are one of the most addictive, if not the most addictive drug, and make no mistake about it, cigarettes are a drug, a legally allowed drug and more addictive in many cases than heroin, cocaine, or any of the other addictive drugs. In this very body we have felt that the consumer's right to know has been so important that we've extended that right in many areas. We've required that all food that you consume, that you know what is in that food. We've required that if the food is aerated, that you know that so that you can make a decision whether or not you want to consume that food. We've required that if the food has been genetically altered, that you know that so that the consumer can make a decision. We've required that if certain pesticides are used on food, that you know that so that you can make a decision. All of these things, which aren't known to cause any harm to the consumer but we've always erred on the side of trusting the consumer that if they have knowledge, they will make a decision that they think is appropriate for them. Why is it that the cigarette companies don't want the consumers to know what's in the product they're selling them? Why is that? I suspect because they don't want people to know that they're putting in those ingredients, either that are harmful to the people they sell the

cigarettes to, or, as the evidence is piling up, stack upon stack, that they are deliberately altering the contents of their cigarettes to make them more addictive. Make them more addictive so that early smoker, that teen-ager, when they first begin to experiment, become addicted more quickly, so that they can maintain their market and trap more consumers into their life-killing product. We know that because the evidence, now, has been forced on the public record, forced. That for years they have been going on with secret experiments, altering the different composition in their cigarettes, knowing that when you added more or less of one substance it made it more addictive. That's a fact. It's known. Shouldn't the consumers know what those products are and whether they're changing from year to year, and perhaps be alerted as a public health issue, to know that ingredients in that product are being changed in some way, for some particular purpose, and maybe to a purpose that is not to the health of the public? I have never known where knowledge has been harmful, where letting people know more about what they consume is wrongful or diminishes the public spirit. The cigarette companies obviously have an interest. They don't want to see this bill pass. They want to keep their consumers and they want the public to be as ignorant as possible of what's in their cigarettes. Our job is the public interest. In that regard, I urge you to defeat this motion so that we can do what is in the public interest, simply to allow people to know what's in the product.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Mitchell.

Senator **MITCHELL:** Thank you Mr. President and ladies and gentlemen of the Senate. I urge you to join me in the Majority of the Committee in voting on the Ought Not to Pass. I would like to explain the reasoning for this. The majority of our Committee, in fact, all of our Committee works very diligently on trying to identify what the hazards are to smoking and to work with Committees and with people in the communities to defeat the smoking of our children and adults. We are very much aware that the ingredients of cigarettes should be well-known to people and we support that. However, when it comes to what should we actually be enacting and when? How should we be getting this information to our people in the most economic manner, in the most cost-effective manner, in an expeditious way, to work through as to when this information would be available? Let's address this.

If this Massachusetts law, in October, goes through, this information will be free. It's public information and our Department of Human Services will have this information available. If it does not go through and we enact this as a law, we would also be subject to a lawsuit. This information, currently, upon further investigation by our Health and Human Services Committee, is available through the International Agency of Research for Cancer and is also with the World Health Organization, and it's available on the network and on the Web. If you need the information they have readily access to those ingredients currently. If this report comes in from the manufacturers, it's going to go to the Public Health Committee. What are they going to do with this information? How is going to be disseminated to the people of the state of Maine? How is it going to make a difference in an expeditious manner? That has not been carried through. So why should we enact a law when it could be free information in a few months, and at which time we would have time, the Department would have time, to come up

with a program on how they would best pass this information along to the people in Maine?

This bill of Ought Not to Pass is further supported by the Maine Chamber of Commerce, an alliance of commerce, and we would ask you also to support it. Because these additives, the elements of the tobacco leaf, there's very little variance between the brands and it depends upon the soil not any additives or manipulation by the manufacturers, which is the main reason for the support of our Maine Chamber and Business Alliance. I would ask you to support the Committee's diligent work on trying to reduce the smoking in our state, and by trying to make this information available to our people in a more effective manner by following through and not simply dictating to the people that are trying to sell tobacco, to issue a report. We have done this on numerous occasions. What happens to this information when it comes to us? What's done with the information and how is it passed on? Let's follow through and support the Ought Not to Pass and let our people work diligently to make sure there is a program in the future when the information is free to us and available, to pass it on to the people so that we can utilize it to the best advantage. Thank you for your support.

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

Senator **TREAT:** Thank you Mr. President and men and women of the Senate. As you well know and probably will become even more aware of it in the coming weeks, as we debate bills coming out of the Natural Resources Committee, I do Chair that Committee. I have a very strong interest in chemicals in the environment. I thought that you might be interested to know that the 15 ingredients that are proposed to be public information by this bill are all required to be reported, if they are admitted into a workplace in this state, or if they're admitted out into the air. I am in support of the Minority Ought to Pass vote and I urge that you defeat the pending motion. This law that I referred to is the Community and Worker Right to Know law. It's been in this state for well over a decade. We have a federal law on the books right now that does the same thing at the federal level. I think it's very appropriate. I find it somewhat surprising that people would object in any way to providing the same information to smoke that people suck into their lungs directly from a cigarette as opposed to being exposed to dispersed out into the environment from a smokestack. Obviously, the impact on an individual would be far greater and I think that's information that people would like to know.

There's been mention today about what the 15 chemicals are. I notice everyone stops reading after the first five. That's because they're virtually unpronounceable after that point. I'm not sure I'm going to delve into the unpronounceable ones but I did want to mention a couple of things about them. There have, it's true, been tests done on cigarettes to determine to what extent these chemicals are in there. That's a little different from having the company actually come and certify what they have put there and what their own tests show. These tests, necessarily, aren't all that reliable. You're dealing with things on the Internet. Frankly, there's been all kinds of things on the Internet lately that, who knows how reliable they are. I, personally, would prefer to have a once a year report sent to our Department of Human Services to educate the public about in a way that I think they'll be very responsible with. I would rely on that information. But just some comparisons between our occupational health and safety levels that we have on the books right now with these

same chemicals, and what we understand to be coming from some of these cigarettes. Cigarette smoke is reported to contain 90 micrograms of formaldehyde per cigarette. The occupational exposure level is down at 16 parts per million, or micrograms. Benzene, again, this is a class A carcinogen. By the way, all of these 15 are proven carcinogens. Now we actually require public information about things that are considered to be potential carcinogens, but these are actually ones that the federal government has ascertained are proven carcinogens. Benzene, which is one of these proven carcinogens, as you know it's an industrial chemical. It's understood that a typical smoker inhales about 2 milligrams of benzene daily. This is higher than what is allowed by OSHA standards. Hydrazine. This is a new one for me. Apparently it's rocket fuel and photographic developer. It kind of amazes me. You wonder, how did anyone even discover that rocket fuel in cigarettes did something? I'll leave that to another day. It's reported to occur in cigarette smoke at a concentration of 32 micrograms per cigarette. Yet, the occupational level is only 1 part per million.

I just would like to speak up for people who don't smoke as well as those who do. I think those who do smoke have an absolute right to this information. They want to choose between brands. That's up to them. If this is an extra kick to get them to stop what is a very difficult habit to break. I have many friends including my mother who went through withdrawal, trying to stop from smoking cigarettes. I think this is the kind of information that will help people do it. But I'd just like to mention, from a non-smoker perspective, I often do go with friends who would like to be in the smoking section of some restaurant or something and I have a choice to make, whether to be there. Sometimes I go with them even though I don't really want to be there. This kind of information, for me, is actually information that I think I have a right to know. When I walk through a bar to get to a dining room that's part of that same restaurant, I'd like to know what the ingredients are out there.

I understand that the Committees concern about this bill primarily is a legal one. It doesn't seem to be a concern about actually getting this information out to the public. For that reason I think they appropriately waited to see what was going to happen in Massachusetts. Now that we have the Minnesota legislation, which is the same as the bill that we're voting on. It is not the Massachusetts bill, which is the bill that was originally filed with the Legislature. I think we can feel reasonably confident that we are not going to face a legal challenge here, and that if we were that that challenge would be easily defeated. I don't think there's any reason to wait here. I'm personally quite confident that the law's on our side here. If there had been any ability to challenge the Minnesota law they would have long since done it. They have plenty of money to challenge anything and have been rather assiduous in pursuing those challenges in the past. I really don't have concerns. I think that's the cost-effectiveness that was related by the Senator from Penobscot, Senator Mitchell. Her concern was that this bill was not cost-effective. I think it's very cost-effective. It's a once a year report that goes to the Department of Human Services, which will take that information and responsibly educate the public. I don't think there's going to be big legal fees from this. I think it's a very appropriate and limited measure. I hope that you will support me in defeating the pending motion so that we can go on to enact the bill.

**THE PRESIDENT:** The Chair recognizes the Senator from Washington, Senator Cassidy.

Senator **CASSIDY**: Thank you Mr. President and men and women of the Senate. If I can, I'd like to take us all back about 10 months ago. If you remember, we were discussing an issue that had to do with smoking in public places. That day I, very reluctantly, announced to you that I had just quit smoking, if you'll all remember. I might tell you, it's been 10 months, the 23<sup>rd</sup> of last month and I think I've done it. The reason that I did do that was because, number one, when I mentioned that on the floor, it wound up on the front page of the Bangor Daily news the next day. I had all my constituents saying, "You better do this." I was going through one of the hardest struggles of my life because I was addicted to nicotine.

Number two, if you remember, the President of the Philip Morris Company informed us all, out of Washington, that nicotine was no more addictive than gummy bears. That was just enough to get my Irish temper up and I decided I was going to quit this thing regardless. From experience, I smoked for 25 years and I tried several times, it's a real difficult thing to do. Some of the articles that we've read over the last few years about what the companies have done to make the nicotine even more addictive and make us more accountable. When I say accountable, I mean counting on the nicotine. It's just a way to get that through your body. I must say that I enjoyed smoking a lot. The issue that we were discussing last year, as you remember, was the right to smoke in public restaurants. I said, "Hey, that's your right." I believe in rights. If you remember me voting on the seat belts, and the lights, and the windshield wipers, and everything else that was going on. I also felt, even though I wanted to quit smoking, that I had a right to go to that restaurant, or own a restaurant, and not go, or not own it. That was my argument. Even though I wanted to quit smoking, I don't believe in smoking for me, at least, I voted to allow those folks to have that right.

In this case I also want to vote for people to have a right. And that's a right to know what's in these cigarettes. I see nothing wrong, as was mentioned earlier by the good Senator from Androscoggin, Senator Cleveland, with knowledge. I smoked for 25 years. I don't mind if people smoke in front of me, or smoke in my house, or anything else. I was often reminded over the years, and I swore that I would never criticize anyone else. If somebody's interested in not smoking, I certainly want to encourage them to do that. I would support them and understand if it takes several efforts to do it. It's not an easy thing to do.

With that, I would ask you also, to defeat this pending motion so we can go on and pass this bill and hopefully make lives better for some of our young folks and the citizens in the state of Maine. Thank you Mr. President.

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

Senator **BUTLAND**: Thank you Mr. President. May I pose a question through the Chair?

**THE PRESIDENT**: The Senator may pose his question.

Senator **BUTLAND**: Thank you. To anyone who may have the knowledge or desire to answer, and I would preface my question with a comment. Obviously, people have the right to know what they're consuming. However, I'm unclear just exactly how we're going to get this information to people. For the last 30 years we've had a warning on the outside of cigarette boxes that says that this is hazardous to your health. Unfortunately, that

hasn't deterred too many people. Are we going to put the ingredients on the outside of cigarette packs, or are we going to put a 1-800 number on the outside of a cigarette pack saying, "If you want to know the ingredients, please call this?" Are we going to have a TV campaign? It's laudable to know what's in the cigarettes. Obviously, it's not that difficult to find out because we have the list here, in front of us today. But I want to know how the average person, the average consumer, is going to be made aware of this and also what effect this might have upon them? Thank you.

**THE PRESIDENT**: The Senator from Cumberland, Senator Butland poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS**: Thank you Mr. President. I do appreciate the opportunity to get back on my feet. Less people think that the Health and Human Services Committee of this Legislature is not steadfast and religious in it's pursuit of getting information on the ground to reach our youngsters. Of course, we know the statistics on the highest number of youngsters smoking in this state. We did not want this to be detracting from that effort. Indeed, Senator Butland's question, what are we going to do with this information that we have already? I remember not being enthralled by chemistry as a child but I did know that there were bad elements and good elements. We know these are bad elements. We have percentages. We have the information, we felt, we needed to know to spread the word that this is not good stuff. We did not want to take precious resources because, as you know, we did raise the cigarette tax last year, but not enough to do the campaign that we needed to do. So that's where our energies are going presently, to work on that campaign, knowing very well that there is no labeling that will go on the cigarette packs. We weren't sure how effectively we would get the word out. The question was asked repeatedly, of how we would tell people exactly what the elements were and the numbers. We do have what they are. The other issue that the Health and Human Services Committee has done repeatedly and will continue to do, is that we are a small, rural, poor state. We have very little R and D money so we have been studying states like Massachusetts. They have been our laboratory on issues from welfare reform to long term care. We find out what they do and then we avoid the mistakes they make and put the best thing in place in the state of Maine. That's how we survive. That's how we continue to survive. If Minnesota could get these ingredients right now, we would be copying them. But they haven't been able to implement it. I assure you that the Committee is steadfast in wanting to get to the primary issue. It's the use of tobacco products in the state and we are not deterred from that. We just didn't want us to start being involved in lawsuits that would drain some of this precious public dollar that we have so little of. Thank you very much.

**THE PRESIDENT**: The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER**: Thank you Mr. President and ladies and gentlemen of the Senate. I've heard some interesting testimony here, today. I've heard that this is a consumer right to know issue. I also heard the Senator from Washington render his gut-wrenching story about quitting smoking. I went through the same process over 20 years ago and the memories of it are equally as

vivid, I'm sure, as his are today. However, in reading this bill, it seems that this information is going to be distributed to the Department of Human Services. I don't know where it's going to go from there. There's an old farm saying, "You can lead a horse to water but you can't make him drink." The last time that I looked at a pack of cigarettes, I believe, it said on the outside of that pack, if you use the contents of this pack, it's going to kill you, or it's going to be harmful to your health. I don't remember the exact wording of it but it certainly isn't very encouraging for anyone that is about to start smoking, I wouldn't think. Now, if the information of a smoker is there in his hand day after day, after day, and said, "The contents of this package is bad for your health," what in the world good is it going to do for us to pass another touchy, feely bill, here, that's totally unenforceable. It isn't going to go anywhere when people won't listen, or won't read what's right in their hand. I've been around here long enough to see enough of these bills that come and go, that are emotional, but they accomplish nothing. The Massachusetts legislation and the law court there are going to pass down a decision that could very well affect us here, and rightfully so. I oppose smoking in every manner, shape, or form that there is. But here again, how are we going to make the horse drink? Thank you Mr. President

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator MacKinnon.

Senator **MACKINNON:** Thank you Mr. President and women and men of the Senate. I ask you to support the Majority report for a couple of reasons. Although I think we all realize that cigarettes are hazardous, I think it is very poor, on our part, to jump into this now when we know legislation may be coming out of Massachusetts in October. I would suggest that all things are labeled this time. If I look back at some of the things that we've purchased that says, flavoring. I don't know what is in flavoring. I do know, taking the adage a little further, that if we salt the oats, they may want to drink the water. I think that we can maybe do that by continuing our effort to reduce smoking. I try to use the analogy that we're maybe going a little too far by suggesting that the last ice storm we had, that we had continuing reminders, "Do not touch these wires." Does that mean if we pass this legislation that next time that we have an ice storm that we should start listing which wires will kill you the fastest? Thank you.

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Off Record Remarks

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**THE PRESIDENT:** The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT:** Thank you Mr. President. May it please the Senate. The good Senator from Kennebec, Senator Treat, says, and she's right, we have a right to know. Respectfully, Mr. President, she already knows. We all know. I've got three pages of what we already know are in cigarettes and what this bill is all about. So we already know. What this bill is about is not about what we already know, and a right to know. But if you take a look at the bill, you'll notice that if this legislation passes, what we're going to find out is, the levels of what we already know. Let's take a look at what we already know. Formaldehyde appears in cigarettes. I don't need to know the level. All I need to know and read is that this is involved in embalming. Hey, right there, that's all I need to know. Three of these ingredients are involved in tire

manufacturing. That's all I need to know. I don't need to know the level, respectfully. Just the fact that these 15 items are there. We know that, so this has nothing to do with the right to know law, because we know. What this involves is the levels of what is there. I don't care about the level, frankly. All I need to know is that these ingredients are harmful as the legend on the side of the package indicates. Senator Kieffer has put his finger on it. What that legend says is, if you smoke these things, there apt to kill you. That's all I need to know. Thank you.

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

Senator **CAREY:** Thank you Mr. President. I have a question that I seemed to have heard someplace that the federal government will be putting in a law in September on this. Can anyone answer that, and then I'd like to continue, if I might Mr. President?

**THE PRESIDENT:** The Senator from Kennebec, Senator Carey poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Kennebec, Senator Treat.

Senator **TREAT:** Thank you Mr. President. To respond to that question, the only law I'm aware of is the tobacco settlement that's pending in Congress. I don't believe that it includes this provision.

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

Senator **CAREY:** Thank you Mr. President. Then, my understanding is that there is not anything definitive that's going to be taking place in September. Because I read in the amendment, which in fact replaces the bill, that our law would take effect in January of 1999 and if something was going to be done in September, we'd be better off to go with the federal law at that time and gain an extra three months of, probably, life saving. I quit smoking 15 years ago and it probably saved my life in 1993 when I had the by-pass surgery. I'm well aware of that. My wife had quit the year before and I had quit simply to support her in her efforts.

I am a little concerned. Apparently, from what I can read, there will be a reporting one time per year to the Bureau of Health and that will be by each and every brand. I'm wondering if maybe a little manipulation just before the reporting period might be in order and then they don't have to report. Maybe the rules will say that they have to report any changes, or levels of change in the ingredients. But that is a concern to me. I will be supporting the gentle lady from Aroostook. Thank you.

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The President requested the Sergeant-at-Arms escort the Senator from Knox, Senator **PINGREE** to the rostrum where she assumed the duties as President Pro Tem.

The President retired from the Senate Chamber.

The Senate called to order by the President Pro Tem.

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**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Madam President. I rise because I wish to respond to some of the questions that were asked and also to expand on some of the points that I think are critical in getting a clear understanding of this. Because this is not an issue that ought to be driven by emotion. We ought to decide the issues by reasons and fact and public interest. I urge you to do that here, today and I think that if you do you'll find that the reasons suggest that we ought to pass this bill.

One of the important factors of this bill, and I want to restate it again is not that we know that there are harmful chemicals in there but that we know how they change them from year to year. This is not a static product. They have spent hundreds of millions on research figuring out how to make their product more addictive and how to make it more harmful. We ought to know that. The public should know that. The only way that your going to know that is by having reporting requirements, so that we can see the contents change, to provide that information to us. And we ought to have that information here. It is not a burden on them to do that. They produce the information and it ought to be available immediately, here, once a year in a report to our Department of Health. There's no reason that they ought to be excluded from that requirement anymore than any other manufacturer has to report to this state as well, what's in their products or their food. I'd like to speak as well to the issue that was raised, and I think that it's an important one, what will it really mean about getting information out to people so they can make decisions? How will that be accomplished? That is a good and legitimate question. The fact is, by having this information here, we'll have an opportunity to disperse that information by all means available. For those who hadn't noticed, there are three television cameras in this room. Why do you think they're in this room? For any other bill in this room? I don't think so. They're in this room for this issue. This is the issue that has the public's attention and the media's attention. By having information available, the Department of Health will be able to use it through the media, on a variety of stories in the printed press, the media and the radio, to talk about cigarettes and how their products have changed, the ingredients in them and provide the information through the media, readily. They'll be able to provide the information to the doctors, nurses, hospitals and health care institutions. They will have information more readily available to them about the contents and how they change so they can advise their patients about what is in the product and what they ought to be doing for their own health. Information can be provided directly to schools and their health care programs to educate the students as well. But more importantly, you will remember that when we passed the increase in the cigarette tax, we obligated \$3.5 million a year, per year, specifically to be used for media and other kinds of advertising for information and product cessation. It is well-funded and they're in the process of making some carefully thought-through decisions about how best to utilize that money, to inform the public about the dangers of smoking and inform them about what is in the cigarettes, as well, why it is dangerous. The funding is there. The process is in place and it's carefully going through to decide how to best use it. We don't need to stall and wait for anyone else. We have it well in place to utilize and get the information out readily within our society already.

Thirdly, I don't believe we will be sued. They took no action in Minnesota. There's no indication they'll take any action here.

And furthermore, as one State Senator, I don't intend to be intimidated by the cigarette companies or anybody else. If it's good public law, we should support it. If there are the interest groups who are well-financed who want to use the court system for their own purposes for delaying and intimidation then let them. But as a public servant, I will not be intimidated by any threat, by any well-haled and well-financed organization simply so they may prevail in another venue rather than this. And I trust that the courts will do the right thing.

Finally, let us not forget that we live in a world of competing messages and we're on the losing end. Cigarette companies spend hundreds of millions of dollars a year, hundreds of millions of dollars a year enticing our young people and creating a glamorous atmosphere by Joe Camel, attractive young people, sexy advertising, sponsoring sporting events because they know it's effective. And if you can repeat the message over and over, and if you can gloss over the dangers of your product and make it, somehow, a more attractive product, all you need to do is get them to light up a few packs because you know you've made it more addictive. We compete with that, in this country, day after day, after day. So when you send conflicting messages and when you put most of the money on the other side, the campaign is going to be long and it's going to take a long time. But it's one that we can't fail to engage in even as modestly as we're doing now. Because we will doom future generations to further health hazards and death. They have a right to know. There is nothing that suggests to me more than the fact that this little bill is getting so much opposition from the manufacturers and distributors of cigarettes. If they don't believe we're going to get the information out, if they don't believe it's going to be useful, if they believe it's going to be innocuous, why spend so much time and effort? Do you think that they're not intelligent human beings. They're very intelligent. They know exactly what they're doing. They know exactly why they don't want this bill on the statutes of this state because they don't want it to be competing. And they know that it will get out and they recognize that competing information makes it more difficult to succeed in their glamorous advertising of the product to addict more individuals. I urge you to defeat the motion.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Madam President and ladies and gentlemen of the Senate. Believe it or not, I think there is one point that has not been addressed in today's debate. That is the concept of different strokes for different folks. Any issue of this magnitude regarding any substance of this level of addiction requires a whole arsenal of tools to address it. If it was a matter of simply saying, this isn't good for you, we wouldn't have any heroin addicts but it goes beyond that. It is not enough to simply say, cigarette smoking isn't good for you and expect that everybody will stop smoking. There have been statements made in this Chamber today that the existence of those ingredients is enough and that the amounts don't matter so much that their mere existence is all you need to know. There was a statement that the warning label on the package is really all you need to know. There was a statement that the loss of a loved one is all you need to know. The point is that for each individual there is a different reason that will convince that individual to stop smoking. If this bill creates the reason for ten, six, or two smokers that is good enough for me. It has done it's work. We need every single tool at our disposal to combat this absolutely

insidious and costly scourge in our state. I would urge you to defeat the pending motion.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Madam President and ladies and gentlemen of the Senate. We got talking about cigarettes and I'd gone three hours without one. I just went out and had a fix. My blood pressure rose but I feel good. Smoking is like Russian Roulette. The only thing is that suicide is against the law in the state of Maine. We've had that debate already and lost. We're probably going to lose this one too. There's nothing worse than a reformed smoker and there's quite a few people in this room that fit that category. The more that people get after to me to quit smoking, whether it's friends, relatives, or strangers that give me a disgusting look when they see me smoking, that just makes me mad and I'll probably never quit if that continues. I'll quit if and when I'm ready. Maybe when the doctor tells me that I've got six months to live if I don't quit. Maybe that will do it. I don't know. I've recently had four friends who have had severe heart attacks, ranging from age 43 to 69. One of them, the 43 year old, just had a triple by-pass. He was in the hospital for a week. He wasn't out five minutes and he had a cigarette in his mouth, and he's continuing to smoke against his doctor's advice. The other three are not smoking. One hasn't got enough left of his heart so that he could possibly smoke for a week. He'll be very fortunate to see spring because there was a lot of damage done. And I'm still smoking. I know that my day is coming. But if I choose to die because I smoke, that's my choice. I have an announcement to make. If anyone in this room thinks they're going to live forever, you're wrong. And seeing there are some young people here, I will predict that in 90 years from this very date in time there will not be one of these people in this room still alive. Think about it. How you live your life should be your choice. Now, just because you make the tobacco companies disclose what's in there. We all know what's in those cigarettes. You all know what's in hot dogs, the disgusting things they put into hot dogs but is there anyone in this room who doesn't still eat them? Don't you all know what these fast food restaurants are serving? It's bad for your heart but don't you all stop and grab a hamburger, and a French fry, and a shake? Probably you do. I do and every time I do, I think of it. Do I want that greasy hamburger that's bad for me? But it's quick so I stop occasionally and have one, and am mad at myself every time I do. I'd be better off with a green salad with no dressing. I think of it every day. I overate yesterday and went to bed with too full a stomach. I used to think for awhile here, this is a bad place for you in Augusta. I came here slim and trim, and I thought well, it's probably just temporary. Yeah, temporary lasts forever, I'm afraid, now. Well, it's a great deal like smoking. You can make this known and as already has been mentioned, what are we going to do? We're going to put out a press release, twice a year maybe and tell everybody what's in cigarettes. We're going to talk about it for that day that it's in the newspaper. We're going to talk about it tonight and tomorrow because the cameras are here. Okay? But that's it. It's forgotten. Why do something that may be delivered to us free anyway? Why even take a chance on a lawsuit? It isn't going to do any good. You can put every one of these ingredients, the amounts, on that pack of cigarettes and it's not going to stop one person, in this whole country, from smoking. If you think that it is then you're living in a cave. I urge you to support the pending motion of Ought Not to Pass. Thank you.

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Off Record Remarks

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**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Thank you Madam President and men and women of the Senate. If we already know what's in these products than obviously there's no need for this bill. And if we already know what's in these products and the quantities that are in these products then if we pass the bill, how on earth would anybody sue us for having to disclose something that we already know. You can't have it both ways. I think the truth is that what we know about these products has been derived from laboratory testing of the end product itself, and that we really don't know what is put in during the manufacturing process. We don't know what these manufacturers are deliberately putting in by way of additives. But we do know, as we read in the backs of magazines, that Marlboro, for one, is touting itself as an additive free cigarette. It's like it was Spring soap or something. Now, how are we to know, how is our Public Health Department to know if Marlboro is telling the truth? There may be some people in this Chamber who suggest that we trust them but, were you born yesterday? I agree with the Senator from Aroostook, Senator Kieffer, that it's a shame that we have to burden our statute books with a bill on this subject in order to get the job done. But if we don't do it, if we don't do it from this Chamber, who will do it? The only downside to passage of this bill that I've heard, other than the fact that it may occupy a page within our statute books, which are already many thousands of pages long, the only real downside is that maybe some cigarette manufacturer will file a lawsuit to enjoin the bill. If we're going to defeat this bill because of concern, or fear, or hesitancy, or timidity, that someone, some company out there, might file a lawsuit against the State then I suggest to you it would be very difficult to pass any legislation through this Chamber. It reminds me of a poem by T. S. Elliott from 1917. You all read it when you were seniors in high school and quickly forgot it. The love song of J. Alfred Proofrock which is about a man about my age, mid-fifties, who would love to make an approach. He's a bachelor, or widower, we don't know. He would love to make an approach on a somewhat younger woman, who's caught his fancy, but he's in his mid-fifties and he doesn't want to interrupt his daily routine with a relationship. He's not too sure that this is a thing he should do. He lacks the courage, perhaps, to make this approach. He hangs around the beach a lot and he rolls his trousers up, the way old men do, or men like me in their mid-fifties. And he can't bring himself to action because he's paralyzed by timidity and hesitancy. He says, "Shall I part my hair behind? Do I dare to eat a peach? I shall wear white flannel trousers and walk upon the beach. I've heard the mermaids singing each to each. I grow old. I grow old. I shall wear the bottoms of my trousers rolled. But though I have wept and fasted, I am no profit and here's no great matter. I have seen the moment of my greatness flicker and I have seen eternal footmen hold my coat and snicker. And in short, I was afraid.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Penobscot, Senator Mitchell.

Senator **MITCHELL**: Thank you Madam President. Just to quickly close, I would like to pick up on some of the questions that the Senators have brought up. It isn't the fact that the Committee was afraid of a lawsuit. Because when this bill is enacted, in January the information will be available free as a result of the pending lawsuit in Massachusetts when Mass. wins. Because we're confident that Massachusetts will win and there's no need for lawsuits or us to be concerned, this information will be available free, prior to when our law goes into effect. Which again, I would hope that the media and the public's concern on being here today is not only for the ingredients that we know that we have available but that we make common sense policy and laws to protect our people in this state. And listen to what our neighbor state, New Hampshire, did by enacting a law that enabled the Commissioner to derive the information from Massachusetts when it was available. So I would say to you that the enactment of this law will not provide information sooner. In answer to another question that was brought up, how is it going to be disseminated? It's not going to be on the packages and it's going to the Health Committee, and at this time there is no provision on that being disseminated to the public. So it's going to be another report required by businesses to be submitted and no end as to what's going to happen with the effort and the cost for providing that information. The information, yes, is available and let's take advantage of the free information and a program that will provide that information. Thank you for supporting the bill as it is presented, Ought Not to Pass.

**THE PRESIDENT PRO TEM**: The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY**: Thank you Madam President. I'm glad to see that the good Senator from Androscoggin, Senator Cleveland, has chosen to come back from the rear of the Chamber to his seat because I hope that when he made his remarks a little earlier, he wasn't inferring that any of us are in the pockets of the tobacco industry. I would be highly upset if that is what he was implying. I, personally, have the right and often do disagree with the Majority, the Majority of my Party, the Majority of the other Party. I cast a vote based on what I believe. And I believe that the good Senator, Senator Paradis from Aroostook is correct in this matter.

**THE PRESIDENT PRO TEM**: The Chair recognizes the Senator from Franklin, Senator Benoit.

Senator **BENOIT**: Thank you Madam President and may it please the Senate. I'm pleased that Senator Carey just made the statement that he did, and I thank him for making it. Neither am I intimidated by the tobacco lobby. I'll tell you what intimidates me. The principle of common sense. I'm always intimidated by the principle of common sense. Here, the principle of common sense tells me we don't need the law for the reasons that have been stated of what's going on in Massachusetts with litigation on a like situation. We'll have the information free. So for the many reasons that have been stated in support of the pending motion, I will be voting for it. And I am always going to be intimidated by the principle of common sense.

The Chair noted the absence of the Senator from York, Senator **LAWRENCE**, and further excused the same Senator from today's Roll Call votes.

**THE PRESIDENT PRO TEM**: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND**: Thank you Madam President. There's apparently been some confusion. I'd like to clarify the confusion, particularly for my good friend and seat mate, Senator Carey. I wasn't suggesting that anyone in this Chamber would at all vote in any way because of any direct influence from any cigarette company, at all. It never crossed my mind at all. I have too much respect for every single member in this Chamber to even think that thought. So, if anyone other than Senator Carey ever thought of that I certainly hope that this would clarify that I was in no way trying to suggest that. But I do suggest that by threatening lawsuits in general, that is a well-known tactic for intimidation and I am not going to be threatened by it.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

**ROLL CALL**

**YEAS**: Senators: ABROMSON, BENOIT, BUTLAND, CAREY, DAGGETT, FERGUSON, HALL, KIEFFER, LIBBY, MACKINNON, MICHAUD, MITCHELL, O'GARA, PARADIS, PENDLETON, RUHLIN, SMALL

**NAYS**: Senators: AMERO, BENNETT, CASSIDY, CATHCART, CLEVELAND, GOLDTHWAIT, JENKINS, KILKELLY, LAFOUNTAIN, LONGLEY, MILLS, MURRAY, NUTTING, RAND, TREAT, THE PRESIDENT PRO TEM - CHELLIE PINGREE

**ABSENT**: Senator: HARRIMAN

**EXCUSED**: Senator: LAWRENCE

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent and 1 Senator being excused, the motion by Senator **PARADIS** of Aroostook to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

Off Record Remarks

The Chair laid before the Senate the following Tabled and Later (3/2/98) Assigned matter:

Bill "An Act to Extend the Prevailing Wage Laws to the Maine Turnpike Authority" S.P. 708 L.D. 1956 (C "A" S-463)

Tabled - March 2, 1998, by Senator **PINGREE** of Knox.