

MAINE STATE LEGISLATURE

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Authority, or their designees. The commission may require the Department of Transportation, the Department of Public Safety and the Maine Turnpike Authority to provide the commission with such highway, traffic and other information as it determines necessary and beneficial to conduct its study of traffic congestion. In addition, the commission may seek relevant information from experts and interested persons.

6. Meetings. In conducting its duties, the commission may meet at such times and locations as approved by the President of the Senate and the Speaker of the House of Representatives, except that at least 2 informational meetings of the commission must be held in York County.

7. Staff assistance. Upon approval from the Legislative Council, the Office of Policy and Legal Analysis shall provide staffing services to the commission.

8. Compensation. Legislative members are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement of necessary expenses for their attendance at authorized meetings of the commission. Public members not otherwise compensated by their employers or other entities whom they represent are entitled to receive reimbursement of necessary expenses and a per diem equal to the legislative per diem for their attendance at authorized meetings of the commission.

9. Reporting date. The commission shall conclude its review and submit a report of its findings and recommendations, along with any suggested legislation, to the Joint Standing Committee on Transportation and to the Commissioner of Transportation by January 14, 2000. If the commission finds it is unable to meet its reporting date, the chairs shall submit to the Legislative Council, in writing, a request for extension of the reporting date, the reasons an extension is requested and a proposed new reporting date prior to the reporting date. The Legislative Council may grant an extension. Upon the submission of its required report, the commission terminates.

10. Commission budget. The chairs of the commission, with assistance from the commission staff, shall administer the commission's budget. Within 10 days after its first meeting, the commission shall present a work plan and proposed budget to the Legislative Council for its approval. The commission may not incur expenses that would result in the commission exceeding its approved budget.

Upon request from the commission, the Executive Director of the Legislative Council or the Executive Director's designee shall provide the commission chairs and staff with a status report on the study budget, expenditures incurred and paid and available funds.

Comes from the House, **READ** and **PASSED**.

READ.

On motion by Senator **PINGREE** of Knox, **PLACED ON THE SPECIAL STUDY TABLE**, pending **PASSAGE**, in concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later (5/7/99) Assigned matter:

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Prohibit the Use of Juveniles in a Tobacco Enforcement Action"

H.P. 1429 L.D. 2052

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-361) (8 members)

Minority - Ought Not to Pass (5 members)

Tabled - May 6, 1999, by Senator **PARADIS** of Aroostook.

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, May 5, 1999, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-361)**.)

(In Senate, May 6, 1999, Reports **READ**.)

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

Senator **BERUBE:** Thank you Mr. President. Ladies and gentlemen of the Senate, I hope that you will vote for the Majority Report and oppose the Minority Report which is before you now. When I heard at the Public Hearing and at the Work Session that we were contracting with certain companies or agencies to use young people, juveniles, minors to work in sting operations to nab small stores that might have sold a package of cigarettes, I thought that was inappropriate and frankly I was appalled that kids could be used in illegal procedures. These juveniles, these young people of 15 or 16 years of age, are recruited by these agencies that are under contract to the State of Maine. They are trained for one day and paid anywhere from \$6 to \$7.50 an hour. We were told that most of the time they were paid \$7.25 an hour. I think that is most inappropriate when they could use young looking law enforcement officers to do the very same thing. Now we're told that the parents are delighted and usually extremely pleased that their children are performing those services. They have to sign a paper granting approval but what they don't tell us is that when they sign the paper giving approval they are also releasing the supervising agency, which is under contract, of all claims of liability.

Furthermore, if the child is hurt in any way during the time they perform these services, the parents must pay the doctors bills. These sting operations are conducted with no witnesses other than the law enforcement officer which is outside the establishment and it's the youngster that walks in by himself or herself into that store. There are no cameras, no witnesses and

for the alleged infraction the owner is charged anywhere from \$250 to \$10,000 as a fine. It was interesting to note that out of 500 establishments visited from a year ago last April to I think it was this March, out of 500 stores visited only 11 gave in and sold a package of cigarettes to the young person. It seems to me that rather than resort to these tactics, if we really wanted to get rid of tobacco and not sell tobacco products to our young people, that maybe we should ban the sale of tobacco in our state entirely. But then we'd loose, according to the funding figures I have, about \$77 million a year. So I guess we don't want to do that. We'd rather use the juveniles to go into an entrapment situation. I think it's wrong to hire young people to do that. The thing that bothers me is that as you read history you wonder when will they start wearing brown shirts. If my Country and my State are so desperate to rid our young people of smoking tobacco and they have to stoop to this level for 8 pieces of silver I really think, ladies and gentlemen, that we are in deep trouble. So I hope that you will vote Against the motion for accepting the Minority Report and instead Accept the Majority Ought to Pass. Thank you.

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

Senator **PARADIS:** Thank you Mr. President. Good evening men and women of the Senate, I urge you to support the Ought Not to Pass Report. This is one of these feel good Bills. Let's not forget what the real point is here this evening. We have the highest rate of tobacco usage among our youth in the whole country. We're trying different strategies to attempt to change that reality. Children are 30% of our present but they are 100% of our future. I wish we didn't need to be discussing this today, however society expects us to find solutions. We are facing desperate costs now and later if we don't find ways to curb this. It is an epidemic with our Maine youngsters and young adults. It is a dubious distinction to be the highest smokers in the Country. I urge you, my colleagues, to oppose the passage of L.D. 2052 because it's one facet of our war on this very addictive substance. This effort didn't just spring up. The enabling legislation was passed by very responsible men and women of this Body, many of them are still here this evening. It has had documented success. When the enforcement started 44% of businesses were selling to minors. I believe the latest numbers are 4%. This has worked. If we want it replaced we have been told we can come up with other creative solutions. But in all this debate we have not had one person who has been able to come up with another way of doing this that would be as effective. In the year 2000 fifty States will be doing exactly what we're doing and in all fifty states no one has been able to come up with alternatives. Compliance inspections are required by the Federal Regulations regarding the sale and distribution of tobacco to minors. Passage of this legislation means the Federal Government could take over the compliance check and probably use the same youths without us having any say on it. We are using the Attorney General's office to monitor this effort and we're using them because we wanted to be as super careful, super safe with people who know about these issues. Dozens of protocols were reviewed before our final version was accepted and our version is stricter than the Federal expectations. I became involved in my local assist program as a board member several years ago. I wanted to participate because I was concerned then as I am now about the issue of youth smoking. I attended training workshops and attended

presentations that the students give to their peers at school and never once did a red flag go up about this effort. Maybe it was because the parents are totally involved and sign contracts for their youth to participate. It's a family decision. Many times on the floor of this Body I've heard Senators say let the parents decide. Well they have and they are full partners with their children in this effort. Florida saw smoking among 6th and 8th grade students decline 19% in one year. They have an incredibly aggressive anti-smoking campaign. We are trying to learn from these other States. But one of the things we're doing right is their compliance rate is down to what ours is right now. So we have a long way to go but this is one of the things that has been working. L.D. 2052 would set us back to something that has worked. Very responsible men and women put this plan together, as I mentioned a while ago. We were always taught don't destroy something unless you can build something better. The enabling legislation was right in 1995, it is right this evening. I urge you to support the Minority Ought Not to Pass Report. Thank you very much for your kind attention.

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

Senator **DAVIS:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise this evening in support of the good gentle Senator, Senator Berube, from Androscoggin in this matter. I learned about three years ago that the DHS, Department of Human Services, was going to start doing this. I learned a bit over here across the river at a meeting at the Kennebec Sheriff's Department when I was the Chief Deputy of the Somerset County Sheriff's Department. I was appalled that they were going to do this and I still am troubled by it. I believe that using teens in a sting operation is just plain wrong. I want to tell you a little bit if I might about how I feel about tobacco and how I feel about a number of things. One of the reasons I'm going to tell you about my experiences with tobacco in my life is because of an E-mail that I received a few weeks ago from some people right here in Augusta who I feel probably work in this project. In the E-mail they made the statement that anyone, and I felt it was pretty much directed at me, that was opposed to this had to be a clone to big tobacco. That anyone that was opposed to it also wanted to protect the illegal, immoral store owners that were selling cigarettes to children. Well I want to make myself clear. I strongly dislike tobacco. As a young man a long time ago in 1968 I got out of our Armed Services and I was addicted to cigarettes. The last thing at night after I turned my light off I'd butt out a cigarette. The first thing in the morning I'd light up. I smoked three packs a day. It cost 11¢ in the PX in the Army and they encouraged you to do it. I was addicted to them. It was a tremendous struggle both within myself and with my faith but I was able to quit. Other reasons I don't like tobacco is my dad. Three years ago this November he died of lung cancer. He was a mill worker in the town of Dexter. He was immensely proud of his son that became a State Trooper. I know how proud he would be today. One of my most vivid memories of my dad is him sitting on the edge of his bed coughing until he couldn't breath any more because of cigarettes and tobacco. I do not like tobacco. I think, Mr. President, you can clearly see that I am not a clone of the tobacco industry.

In fact, I voted against recently groups that supported me for election to this honorable Body in that my vote will cause our restaurants to be smoke free and I received a lot of comments on

that and some of them not too positive, I might add. I am though, Mr. President, a retired State Police officer. I had the wonderful opportunity and the wonderful experience, one that I'll be grateful for until the end of my days, of wearing the uniform of the finest police organization in our Country, the Maine State Police. I worked for 23½ years. I also wore the uniform of the Somerset Sheriff's Department for 3 years and I wore the uniform of the Town of Newport for 1½ years. A few weeks ago I had a sentiment in our Calendar, honoring one of our State Troopers. A man that had removed in his career 1,100 drunk divers. That is good police work. He has nearly 22 years on the force and 1,100 drunk drivers is unheard of. I love good police work. Sting operations using teenagers is not good police work. It is lazy and it is lousy and what it does to children stinks. A couple of months ago my wife and I went to the Maine State Police graduation up at Colby College in Waterville. I was very proud to think that I was part of that organization and that I received my credentials from Governor Curtis back in those days. As I watched the young men and women graduating I felt how proud I was of them. But then I also thought of using teens in sting operations and I couldn't help but think what was going through these young men and women's minds when they were learning that it was all right to do this. In all my years of government service I never once heard the government sanction the use of teenagers in sting operations. I have talked to police officers as recently as an hour and a half ago, people who have had years of service, and never once have any of them heard of using teens in sting operations. Not once, other than to buy cigarettes. Sting operations at best can be very controversial. At worst they can be down right dirty and sneaky and border on being illegal. You might ask are there other ways? The good Senator from Aroostook, Senator Paradis, mentioned don't tear it apart unless you can build on it. Well I can tell you other ways to do these things. Good old fashion police work will do it. Police officers don't drive by teenagers drinking beer. It's illegal to smoke cigarettes for a teenager. It's illegal to possess them. Why do they drive by them? It's Federal money that's running this. Then use the Federal money to pay them to enforce the law. Do it the old fashion way. If you see a kid and you are a police officer and he's smoking go grab him. Put him in your car, take him home. Do it the old fashion way. If you want to work the stores, have the police officers go in and pose as clerks. There's no difference in the penalty in selling cigarettes and failing to card someone, to ask someone for an ID if they're under the age of 27. There's no difference in the penalty. None at all. There's no need to use teenagers. Now the comment has been made that we're going to loose Federal money. I don't agree with that. The comment was also made that the Federal Government is forcing our State to do that. The Federal Register would tell you different. It would say that it encourage these States to do it in ways that they feel are proper. But even if it is and even if the Federal money goes, do we have to bow down before the alter of the almighty Federal dollar for everything. Can't we control our insatiable desire to spend money and not sell the children into something like this? And I would end, Mr. President, with this remark. If this is so good, if this is such a good Bill, then when we get out of here you go down to your local coffee shop and you tell the folks, every coffee shop's got a nice long table in there, over to Dexter it's in MacDougal's Bakery, we all call it shadow government. You go in there and you tell the folks setting there about this and ask them if they think that this is a good idea. Thank you very much.

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

Senator **BENOIT:** Thank you Mr. President. May it please the Senate. There's not much more that I can say in light of the comments of the good Senator from Androscoggin, Senator Berube, and the Senator from Piscataquis, Senator Davis, as well. But I would like to offer an observation or two. I think when society needs to resort to this kind of use of children this particular way under the guise of good criminal law it says something about the quality of the life in this state and just doesn't reflect well upon us. It seems to me that the cure is worst than the malady that we seek to eradicate. And what is the answer instead of using children this way? The answer is beef up the law. Senator Davis indicates good police work. That's part of the picture as well. But if in fact we need to do something to stop the illegal sale of tobacco to children, let's take a look at the statutes. Let's beef them up. Thank you, sir.

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

Senator **HARRIMAN:** Thank you very much Mr. President. Good evening ladies and gentlemen of the Senate, the statistics show that the compliance rate of Maine retailers since the implementation of juveniles to participate in sting operations has gone from about 83% compliance with the Federal law to today where Maine retailers are complying with the law 96%. Yet over that same period of time, Mr. President, teenage smoking has gone way up. It seems to me that perhaps we ought to claim victory on retailers, congratulate them for complying with the law, and move on to what I think is the systemic problem. That is teenagers are getting access to cigarettes and it's not through the retailers. In fact, a month or so ago, Mr. President, I happened to be reading one of our favorite newspapers here in the state and on the front page below the fold was an article about teenage smoking habits. There were two teenagers prominently displayed with photographs, names and where they lived, smoking a cigarette. So I called the doctor who's the Director at the Bureau of Health and asked her were we going to enforce the law? To date it is my understanding that no summons have been issued. Recently there was a safety security check at one of the high schools in our state and in the interest of safety backpacks and other devices that students use to carry their personal belongings and books to class were searched. In there a number of students had tobacco products. To my knowledge none of them have been summoned. Further, Mr. President, the Federal law says that retailers must by law ask for positive identification for anyone age 27 or under to verify their proof of age before they can buy tobacco products. And so, Mr. President, I think perhaps this is a good idea whose time has come and certainly in my view is gone. I happen to be in to one of the shadow government stores, as the Senator from Penobscot, Senator Davis, so eloquently stated, and around the counter the proprietor mentioned to me that he had a teenage smoker come into his store the other day trying to buy cigarettes. I said Gary what did you do? He said well I asked for identification for how old he was and he left the store. So then he picked up the phone and he called the police. Called the police to tell them that there was an underage individual in his store trying to buy tobacco products. To the Yarmouth Police Department's credit, a police officer promptly arrived on the scene, approached the individual who had tried to buy the

cigarettes, whereupon a couple of undercover police officers identified themselves as a member of the sting operation. I'm still waiting, and I've asked the Attorney General of the State of Maine, that if we're going to take the time to create entrapment opportunities for retailers to violate the law, that when we have retailers who stand up and not only comply with the law but pick up the phone and call the police department to enforce the law that I would think the Attorney General ought to be able to find a few minutes to recognize the fact that Maine businesses are trying to do their part. I'm still waiting for that day, Mr. President. Thank you.

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

Senator MILLS: Mr. President and men and women of the Senate, as we approach the end of this century it is sometimes appropriate to reflect back a hundred years to examine how people died a hundred years ago and contrast that with how they're dying today. Public health reports reflect that the major causes of death in 1900 were things like cholera, tuberculosis and childhood diseases such as measles and whooping cough. Basically bacteria and viruses that people caught from one another or from the drinking water. Things that spread from one substance to another and caused epidemics within our communities. When you look at the causes of death today we find that people are dying primarily of heart disease or cardiovascular issues, diabetes, cancer and lung ailments. When you look at the statistics behind these diseases there are three major causes. Diet, exercise or lack of it, and tobacco. Tobacco is one of the three most significant producers of death and disease in this state. The interesting thing about all three of these highly exacerbating factors is that they are in large measure completely within human control. They are not some mysterious bacterium or virus that floats through the air or through the drinking water and catches us unaware. These are things that arise out of the habits of life. Of those who are addicted to tobacco 90% of them start when their bodies are still forming in the juvenile years, when they are teenagers, and there is something about the addictive quality of tobacco that it takes hold of the human organism and takes possession of it when you're 16 and 17 years old. It does not let you loose. Somehow if you start when you're 20, 21 or 22, there's something about the habit or the addiction that permits you more gracefully and more easily to give it up in later years. Very few people who start smoking as adults find themselves encased in it or entrapped by the habit. But 90% of all addicted smokers, those who have the greatest difficulty in giving it up, start when their young bodies are still in formation.

There is something peculiar about the association of nicotine and youth that creates a habit that kills 3,000 people a year in Maine. What bothers me most about this discussion tonight is that at least in some cases those who have expressed the strongest moral outrage about using 16 and 17 year old kids, young adults, define them how you will, but to use these folks to express moral outrage at using these folks to buy tobacco products. Those who expressed the greatest outrage are also those who have been the least willing to do anything about controlling this most controllable cause of death. And there is very little that we can do as a state. It's very hard. We can't solve this problem from this Chamber. I have never argued that we can. There are only a few things we can do. And we have done some of them over the objection of many in this Chamber.

We have increased the price of this product to a point where it is somewhat beyond the economic availability of young people. We have prohibited young people from possessing and using the product and to those who say that that law is not being enforced it has been provided to me that we have accessed about \$60,000 in fines during 1997 the first year that this became a civil violation in our state. We went up to \$91,000 in 1998. So we are, for whatever effectiveness it has, imposing fines on kids who smoke. Are some of them scoffing at that? I know they are. Is it working? I don't know. Is it something that this institution can do to try to control or save just a few lives from exposure to this drug? Yes. But I think we should be asking what more can we do. Not talking about how we can constrain or remove or eliminate programs that have been proven to work. I don't know whether more teenagers are smoking now than were smoking a year ago or two years ago. But we have firm statistics that three or four years ago up to 44% of our store owners were flunking the test about selling tobacco to teenagers. They just outright flunked. Then after this program was publicized and put into place it went down to 17% and has since been reduced to 4%. Now that is tangible. How else, except through this program, would we know how successful we have been at cutting off the sale of this product to kids at the store level. Why is it that we fight with such fervor a program that has proven itself as almost no other program ever has to be so successful. There are so many of us in this Chamber who would like to see performance based budgeting. We would like to see our social programs come back and prove themselves. We would love to have the Department of Human Services come back with evidence that some of the things that they embark upon and spend millions of dollars on work, that they function, that they get results. Here's a program that brings with it its own testing mechanism. And it works. The program is administered not by private agencies, it is administered by people who are in law enforcement. They are employees of the State or of the government, the county or local government. This is not something that people are doing for a few pieces of silver or money. It is something that the State is doing in order to control conduct. The sanction that applies to the store owner is a civil sanction. It's not a criminal violation. It is a civil fine. The ultimate sanction against the store owner would be to pull the store owners license. My understanding is that I don't know if that's ever happened. Maybe it's happened very rarely. But in most instances the people that are managing these purchases, the law enforcement people that are managing these purchases, use the violation as a way of educating the store owner and the clerk so that it doesn't happen again. And lord knows it seems to be working very well. For these reasons I do urge that you Accept the Minority Ought Not to Pass Report and leave this program in place. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator BENNETT: Thank you Mr. President. Fellow members of the Senate, let's not kid ourselves. This program in my view, that this Bill targets is not about protecting kids from smoking. This program is about getting Federal revenues into State coffers. If we were truly interested in protecting kids we would not send them into harms way. I think it's time for us to stand up against the Federal Government and protect our kids. In fact, if we care about youth smoking we should focus on the youths who are smoking. We should stop sending conflicting messages to our young people. If there is one thing that our youth pick up on

it is hypocrisy. When, as the good Senator from Piscataquis, Senator Davis, suggested when you have police officers pass kids standing and smoking on the street corner and don't stop and don't do anything, that is a demonstration of state hypocrisy. It is this sensitivity to hypocrisy that the Department of Human Services has targeted in advertising that they've taken on television catching tobacco executives in lies in front of Congressional Committees. I think that we can take a stand against smoking. But we can also stand up here tonight and say that there is a line in our war against the misuse of tobacco. A line that we will not cross. And that not every \$100,000 or \$500,000 or \$2 million worth of Federal money is worth jeopardizing harm and trouble to our children. So for that reason I hope that you vote Against the pending motion. Mr. President, I request that the Secretary read the Committee Report and I request that when the vote is taken we have the Yeas and Nays.

At the request of Senator **BENNETT** of Oxford, Reports **READ**.

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

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

Senator **AMERO:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise tonight to speak on this issue because the good Senator from Somerset, Senator Mills, has indicated that he believes that people who are supporting this prohibition of the use of children in sting operations are people who are opposed to regulating cigarettes and smoking amongst our young people. Well twenty years ago I was a Chair of my local school board and I'm proud to say that we were the first school board in the whole state to prohibit smoking, not only in our school buildings but also on school grounds. We kind of lead the state in providing education for K-12 students in Cape Elizabeth on the dangers of smoking. I feel that this particular Bill has a great goal and that is to try to stop illegal access to cigarettes amongst young people. But the means that are being used are just plain wrong. We're trying to keep cigarettes out of the hands and out of the lungs of children. Yet we're willing to use children and I believe abuse children in order to reach that end. For me the end in this particular operation just does not in any way justify the means. Yes we all want to keep our children from starting to smoke but let's not use those same children in a sting operation that I think is just plain wrong. Thank you Mr. President.

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

Senator **MITCHELL:** Thank you Mr. President. Ladies and gentlemen of the Senate, I ask you this evening to join my seat mate and Committee mate, the good Senator from Androscoggin, Senator Berube, with me to Oppose the motion, the Ought Not to Pass Report, to that we can move on and vote the Ought to Pass Report. My reasoning for that is as follows. We've listened to the testimony tonight and we've listened to the fact that the highest rate of tobacco use in Maine is youths. But it's also lung cancer, deaths are on the rise in Maine due to increased smoking. We have many programs that we've attempted and some of them have worked and some of them haven't as you've heard this

evening. But what we will say is that the current sting operation has served its purpose. It's down to now only 4% in noncompliance. Now it's worked. Why do we need to continue this program. Why do we need to continue to put our teenagers into this situation. It's evident if the noncompliance is down to 4% and the increased smoking is high that it's not really eliminating any smokers. So what we need to do is to be looking at what's more cool for teenagers to do other than smoke. It's not raising the prices and it's not having sting operations. So let's get down to working with the children. Giving peer pressure from other children. Our advertising has worked but I've been told recently that another State has imposed a different type of advertising called the stinky smoke using teenagers with their clothes reeking in smoke and their idea of it not smelling good to them and that they really didn't like the smell of it. So some of this advertising really has been effective and they have reduced a number of their youth smoking in that particular State due to their advertising. Our advertising has been effective. But it boils down to what are our communities doing and the groups in our communities in working with our children and our youth in proposing something else to keep them busy, something else to keep their minds occupied other than lighting up a cigarette to be a little more cool in front of their friends. So I would ask you to vote with us against the Report and move on the Ought to Pass because we know that we need to eliminate this youth smoking but this particular sting operation has served its purpose. So let's move on now into something else that's going to reduce the number of our youths smoking in our state of Maine. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE:** Thank you Mr. President. Men and women of the Senate, I will try to be brief because I know the hour is getting late and I know perhaps as well as anyone here that we have a lot to do tonight. But there were a couple of things I just felt I wanted to say. The good Senator from Oxford, Senator Bennett, started by saying let's not kid ourselves. I guess I'd like to say the same. My feeling is if we're not going to kid ourselves we'll say the reason we're opposing this motion is on behalf of the tobacco industry. I do not think that anyone can say that this has not been effective and is not a good method for discouraging youth smoking.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett, who may state his point of personal privilege.

Senator **BENNETT:** I think the Senator from Knox, Senator Pingree, is imputing motives into members who may have an opposing viewpoint to her on this particular issue.

THE PRESIDENT: The Chair would inform members that it is against the Rules of Mason's Procedure to impute or question the motives of members of the Body. The Senator from Knox, Senator Pingree, may proceed.

Senator **PINGREE:** Thank you Mr. President. I certainly apologize for any imputing of motives that I might have done in an inappropriate manner. I will say based on what the good Senator from Piscataquis, Senator Davis, said that it is true. I often go down to my local coffee shop, Brown's Market, to get a general sense of what the community is feeling. Unfortunately

it's after 6 pm and they've closed for the night. I thought about calling them up just to get their opinion on this. But I do know they've taken a very hard line against making cigarettes accessible to young people. In fact they keep them behind the counter, they support anyone in the community that's trying to quit smoking and they make sure that young people don't have a chance to buy cigarettes or have access to cigarettes through shoplifting. I think that they would be, in fact, very supportive of using juveniles in this action. One thing I really wanted to point out is that we're talking tonight about using young people to assist us in this task. We over and over have talked about children, using innocent youth. Well I kept thinking about my own son who's 17 years old. I've been surprised at how many of his friends and peers smoke today and how many of them didn't smoke ten years ago. I've been very disappointed to see how youth smoking has been on the rise. The fact is that I would be very proud if my 17 year old or any of his friends were willing to participate in such an action to help in tobacco enforcement. If they were to say to me that they were going to go down to a store in our community or some other community and do something that's was a positive action to discourage the availability of cigarettes to youth I would be happy to have them do that. I do not think that it would do anything but help to reinforce a very positive value of not smoking for young people. The fact that we have 96% compliance shows me that this has been working very well and I do hope that the rest of the Senate will vote to Accept the Minority Ought Not to Pass Report so we can go on to continue a practice that I think has been very successful.

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

Senator **HARRIMAN:** Thank you very much Mr. President. I hope you'll forgive me ladies and gentlemen of the Senate for rising a second time to speak on this issue but I couldn't let the comments from my good friend from Knox, Senator Pingree, go unresponded to for several reasons. To suggest that my comments earlier on the record and the vote I will cast is in some way connected to supporting tobacco companies is unfair and untrue. I do not smoke cigarettes. In fact, as the good Senator from Knox, Senator Pingree, pointed out, I have a daughter who is 17 years old whose friends do smoke and I'm appalled too at the level of smoking. But you know what? They're getting the cigarettes from their friends who are old enough to buy them and they're getting the cigarettes in some cases from their parents. That seems to me to be the crux of the matter that we really must be addressing. I don't stand here tonight to support tobacco companies. In my campaigns for public office I do not take tobacco money from them directly or indirectly. I want the record to clearly reflect that. thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator O'Gara.

Senator **O'GARA:** Thank you Mr. President. Ladies and gentlemen of the Senate, first of all I would like to call you're attention to, if you haven't already taken a look at, the sheet that was passed out by the gentlemen from Somerset, Senator Mills, I hop that you will find it on your desk and take a look at it. Especially the third bullet down. I think it really is a significant paragraph. Secondly I want to emphasize in response to the Senator who has just spoken before me but actually to a remark that he made earlier. I would submit to the members of this

Senate that the compliance that he touts by many stores is not because they themselves have decided that it is the right thing to do. But in fact because using young people, if that's the word you want to use, employing, asking to serve in this capacity, that in fact in many cases is why the small store owners and other store owners have complied because they realize that it has been effective and they'd better get with it and be a little more careful about who they're selling cigarettes to. And about the young people themselves. It's interesting to hear some people talk about them as children when it's convenient to talk to them about children and then on other Bills, on other issues, I hear them talking about young adults. You've got to make up your minds, ladies and gentlemen. They are either children, which they are not, or they are young adults, which in fact they are. The fact of the matter is that these young adults have to agree to do this. That's number one. They are not dragged into this kicking and screaming. They are not forced into this like child slavery or child labor. That's number one. Number two is that their parents have to agree. They have to have parental support. That's number two. Number three is that law enforcement also has to be involved and there is training. Ladies and gentlemen, there may be reasons for you to vote against this Report that's on the board which I hope that you will not. But believe me, the abuse of children is not one of them. Thank you.

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

Senator **KIEFFER:** Thank you Mr. President. Ladies and gentlemen of the Senate, I find it interesting in here listening to the quoting of statistics. I know in my teenage years when I was in high school I smoked and I will assure you that the inability to my being able to go into a store and buy cigarettes certainly wouldn't have stopped my smoking. In raising seven children, I also know that it's a matter of education. Some of them smoke, some of them didn't. But the fact that they were prohibited from going in a store to buy cigarettes wouldn't have stopped them from smoking. The quotation I hear of 96% success reminds me statistically, I've spent my lifetime in a business that was based on statistics, and I'm always reminded of the person statistically that was barefoot and he was standing with one foot on a block of ice and the other foot on a wood fired stove and statistically he should be very comfortable. But I really don't think that he was. Thank you Mr. President.

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

Senator **HARRIMAN:** Thank you Mr. President. I request leave of the Senate to speak a third time on this issue.

THE PRESIDENT: The Senator from Cumberland, Senator Harriman, requests leave of the Senate to speak for a third time on this matter. Is it the pleasure of the Senate? It's a vote. The Senator may proceed.

Senator **HARRIMAN:** Thank you very much Mr. President. Ladies and gentlemen of the Senate, I would only suggest to you that the Federal law requires that anyone who wishes to purchase tobacco products must show proof of identification that they are of age 27 or less. That's the Federal law. So if we really want to see if our compliance with the law is effective then let's use young adults, people old enough to be of age to purchase

these products, not children who aren't. Use children who are 18 years or older and see how the compliance with the law works. You know why we don't do that? No Federal money to do that. Thank you Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator Paradis to Accept the Minority Ought Not To Pass 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 (#164)

YEAS: Senators: CATHCART, DAGGETT, DOUGLASS, GOLDTHWAIT, KILKELLY, KONTOS, LAFOUNTAIN, LONGLEY, MICHAUD, MILLS, MURRAY, NUTTING, O'GARA, PARADIS, PINGREE, RAND, RUHLIN, SMALL, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BERUBE, CAREY, CASSIDY, DAVIS, FERGUSON, HARRIMAN, KIEFFER, LIBBY, MACKINNON, MITCHELL, PENDLETON

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **PARADIS** of Aroostook to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORT - from the Committee on **TAXATION** on Bill "An Act to Change the Sales Tax Treatment of Rentals of Audio Equipment and Furniture"

H.P. 252 L.D. 356

Report - **Ought to Pass As Amended by Committee Amendment "A" (H-677).**

Tabled - May 25, 1999, by Senator **RUHLIN** of Penobscot.

Pending - **ACCEPTANCE OF THE REPORT**

(In House, May 25, 1999, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-677).**)

(In Senate, May 25, 1999, Report **READ.**)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-677) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-677).**

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Measure

An Act to Amend the Water Quality Laws to Establish a New Standard for Mercury Discharges

S.P. 716 L.D. 2038
(C "A" S-316)

On motion by Senator **CATHCART** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Emergency Measure

An Act to Enhance Communications Between the Department of Corrections, the Judiciary and Law Enforcement Agencies

H.P. 1518 L.D. 2166
(C "A" H-634)

On motion by Senator **CATHCART** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

Emergency Measure

An Act to Implement the Recommendations of the Department of Inland Fisheries and Wildlife Regarding Surface Use on Great Ponds

H.P. 1590 L.D. 2235

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.