

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twentieth Legislature
State of Maine

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Pages 1 - 911

Representatives:

BAGLEY of Machias
McDONOUGH of Portland
HATCH of Skowhegan
LESSARD of Topsham
McLAUGHLIN of Cape Elizabeth
KASPRZAK of Newport
MURPHY of Berwick
CRESSEY of Baldwin
CHASE of Levant
HASKELL of Milford

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

Signed:

Senator:

ROTUNDO of Androscoggin

Comes from the House with 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-528)**.

Reports **READ**.

On motion by Senator **ROTUNDO** of Androscoggin, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-528) **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-528)**, in concurrence.

Off Record Remarks

RECESSED until 2:00 in the afternoon.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Require Lifetime Probation for Dangerous Sexual Offenders"

H.P. 374 L.D. 476

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

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-350)** (5 members)

Tabled - May 22, 2001, by Senator **TREAT** of Kennebec

Pending - motion by Senator **MCALLEVEY** of York to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**

(In House, May 21, 2001, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 22, 2001, Reports **READ**.)

On motion by Senator **MCALLEVEY** of York, the Minority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in **NON-CONCURRENCE**.

READ ONCE.

Committee Amendment "A" (H-350) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-350)**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Prohibit the Use of Juveniles in the Enforcement of Laws Governing Tobacco Sales"
H.P. 14 L.D. 14

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-456)** (4 members)

Tabled - May 22, 2001, by Senator **MARTIN** of Aroostook

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

(In House, May 21, 2001, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-456)**.)

(In Senate, May 22, 2001, Reports **READ**.)

President Pro Tem **BENNETT** of Oxford requested a Division.

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

Senator **MCALVEY:** Thank you, Mr. President, men and women of the Senate. I would ask you to consider a number of things, and I'll keep this very brief, before you vote on this issue. There are a lot of dynamics that goes along with this proposed legislation. I'd ask you to concentrate on 2 issues. One, separate the money from the legislation. Would you be supporting this if there hadn't been money from the federal government coming to support this program? Secondly, I have a problem with placing juveniles in this position. I have all along, ever since the beginning. We do not, by design from the Attorney General's Office, use children to purchase drugs, alcohol, handguns. We do not use juveniles to stand on the corner soliciting johns. There are very good reasons for this. Why should we be using them in this process, to go after people who violate the law? I believe the firmest punishment should be levied against any clerk or store that does sell cigarettes to juveniles. But the choke point is not the stores. The choke point is in the parking lot where they young adults buy the cigarettes, take them out, and then turn around and resell them to their buddies. I see no enforcement there. That's where the emphasis of the enforcement should be. It should be putting pressure on these people to roll up on who the responsible adult was that sold them the cigarettes. That's how you put an end to this. But the crutch is this, I don't think this is good public policy that we use minors to enforce this type of law. For those who argue that 'well, we'll lose a lot of federal money', I would say to you we should not use that as an argument. What does that make us? I won't use that word in this chamber because I have too much respect for this chamber. Thank you very much.

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

Senator **LONGLEY:** Mr. President, I rise in support of the motion Ought Not to Pass. I arrived at this position after a lot of listening and a lot of thinking. Everyone is exactly right to have an ethically tough time deciding which side to vote on. In all honesty, there's good ethical reasons for both. I won't say there's not. In the initial vote in committee, I voted the opposite way. Then I went home and I read a letter from a constituent that came soon there after. He made a very persuasive point. The point that persuaded me was the point that, given the way the tobacco industry has exploited youth and we've watched them testify in Congress and deny all sorts of things that they later came forward and admitted about not going after youth, the fact of the matter is they have gone after youth. The point that my constituent made is why not empower our youth to fight back on that exploitation. I finished that e-mail and I came into this State House and I went to committee and asked to change my vote. That is what persuaded me. Given all the ethical dilemmas that you are very rightfully having, remember that this is an opportunity to empower our youth to fight the way that the tobacco industry has exploited them. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator **KILKELLY:** Thank you, Mr. President, men and women of the Senate. One of the things that I do, and have done for several years, is act as an advisor for the Model State Legislature, the YMCA Model Legislature. It has always been a fascination to me that as they sit here and debate in our seats these kinds of issues that the arguments are the same, the challenges are the same, and they struggle as much with decisions as we do. We had some down time at the session, so we picked out 3 bills for them to discuss that were not part of their regular legislative agenda, but something for them to talk about. This was one of the bills. So what I did was pull the bill out and just said 'this is what the bill would do, this is what's currently going on' and just opened it to the floor for them to have a discussion and then they took a vote on it afterwards. When we were in the process of doing that, some interesting issues came out. First of all, they were astounded, these were kids 15 to 18, that anybody would think that if someone volunteered to participate in this kind of a program, had gone through training, had their parent's permission to participate in this kind of a program, that they would be so naïve and so confused that they wouldn't understand what it was they were participating in. They just couldn't understand why any adult would think that. One of the things I thought was the most fascinating was a young man who got up and said 'this is a good way to teach kids the consequences of bad behavior.' He took that a step further and said 'what it does is it lets us know that when you break the law there are consequences.' If you're a store owner and you're selling cigarettes to a minor, there is a consequence for doing that. You are going to get a fine. You are going to lose your license or whatever happens. This is a way to reinforce that we're serious about that, we're serious about this law and there are consequences for bad behavior. They talked about the bill for probably an hour and then they voted. It was unanimous that this bill should not pass and this came from the very age group, the very students, that would be the kind of kids that would probably be involved in this program. I just wanted to share that with you because I thought it was really an interesting opportunity for us to have a connection with the Model Legislative folks who do sit in our very seats and the kids who were, in fact, the most impacted by this. They want to be involved in the solution. They want to be empowered in the process. They felt this was a good way to do it. Thank you.

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

Senator **DAVIS:** Thank you very much, Mr. President, ladies and gentlemen of the Senate. There hasn't been anything said here this afternoon that I disagree with, especially the good Senator from Waldo, Senator Longley, when she says it's an inner struggle for everyone because I believe it is. I also believe that the tobacco companies do exploit youth. I believe they exploit everyone. I have no use or any love at all for the tobacco companies. It's been a struggle, somewhat, for me on this issue because I like good police work. I've seen a lot of good police work and I've seen some poor police work. Sting operations, when done with adults and done properly, are at best controversial. They never are without their controversy. I consider 15 and 17 year olds children and I know if you go and ask them, as the good Senator from Lincoln, Senator Kilkelly, just commented, they would probably want to do it. But that doesn't mean that the government should be sanctioning such activity. I don't think they should. I think there are other ways to do this.

Last week I put a sentiment in our calendar to honor a police officer who arrested a serial murderer, a man that was going around killing his wives and girlfriends and had done it for years. He did a tremendous amount of work on this. It was an unbelievable, long and tedious investigation. He had to travel across the United States a couple of times. That's good police work. That's excellent police work. I believe, in my heart, that we need to do everything we can to control the sale of tobacco to youth. But we need to be very careful how we do it and to do it according to the constitution and also be very careful with our youth. I will be voting against this today. Thank you very much.

At the request of President Pro Tem **BENNETT** of Oxford a Division was had. 25 Senators having voted in the affirmative and 7 Senators having voted in the negative, the motion by Senator **MARTIN** of Aroostook to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

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

REPORTS OF COMMITTEES

Senate

Divided Report

The Majority of the Committee on **BANKING AND INSURANCE** on Bill "An Act to Conform the State's Financial Services Privacy Laws with Federal Law" (EMERGENCY)

S.P. 521 L.D. 1640

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-235)**.

Signed:

Senators:

LaFOUNTAIN of York
DOUGLASS of Androscoggin

Representatives:

DUDLEY of Portland
MICHAEL of Auburn
SMITH of Van Buren
CANAVAN of Waterville
MARRACHE of Waterville

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (S-236)**.

Signed:

Senator:

ABROMSON of Cumberland

Representatives:

YOUNG of Limestone
MAYO of Bath
O'NEIL of Saco
SULLIVAN of Biddeford
GLYNN of South Portland

Reports **READ**.

Senator **LAFOUNTAIN** of York moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-235)** Report.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending the motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-235)** Report.

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

PAPERS FROM THE HOUSE

Non-Concurrent Matter

HOUSE REPORTS - from the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** Bill "An Act to Enhance the Observance of Veterans' Holidays"

H.P. 937 L.D. 1251

Majority - **Ought Not to Pass** (11 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-465)** (1 member)

In House, May 16, 2001, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-465)**.

In Senate, May 17, 2001, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.

Comes from the House, that Body **INSISTED** and **ASKED FOR A COMMITTEE OF CONFERENCE**.

Senator **SHOREY** of Washington moved the Senate **INSIST**.

The Chair ordered a Division. 11 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion by Senator **SHOREY** of Washington to **INSIST, FAILED**.

Senator **MARTIN** of Aroostook moved the Senate **INSIST** and **JOIN IN A COMMITTEE OF CONFERENCE**.