

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-Second Legislature**  
**State of Maine**

**Volume I**

**First Regular Session**

December 1, 2004 - March 30, 2005

**First Special Session**

April 4, 2005 – May 25, 2005

Pages 1-736

(H.P. 1075) (L.D. 1530) Resolve, Regarding Legislative Review of Portions of Chapter 115: Certification, Authorization and Approval of Educational Personnel, Part I and Part II, a Major Substantive Rule of the Department of Education (EMERGENCY) Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass**

(H.P. 10) (L.D. 5) Bill "An Act To Promote Provision of Dental Services to Indigent Children" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-328)

(H.P. 129) (L.D. 178) Bill "An Act To Support Animal Welfare" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-329)

(H.P. 369) (L.D. 494) Bill "An Act To Establish a Program for the Purchase of Prescription Drugs from out of the State and out of the Country for the Elderly and Disabled" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-327)

(H.P. 378) (L.D. 503) Bill "An Act To Make Changes to the Laws Governing the Maine Potato Board" (EMERGENCY) Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-330)

(H.P. 660) (L.D. 941) Bill "An Act To Make an Exception to the Law Regarding Licensing of Fair Vendors Selling Tobacco Products" (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-326)

(H.P. 907) (L.D. 1309) Bill "An Act To Exempt Agricultural Guard Dogs and Herding Dogs from the Barking Dog Ordinances" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-331)

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

**REPORTS OF COMMITTEE  
Divided Report**

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act Requiring Release of Aggregate Information from the Department of Education To Measure the Effectiveness of the Law Requiring Fingerprinting and Background Checks of Educational Personnel"

(H.P. 1103) (L.D. 1565)

Signed:

Senators:

MITCHELL of Kennebec

TURNER of Cumberland

Representatives:

NORTON of Bangor

EDGEComb of Caribou

GOLDMAN of Cape Elizabeth

STEDMAN of Hartland

MAKAS of Lewiston

LANSLEY of Sabattus

CAIN of Orono  
MERRILL of Appleton  
Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Senator:

SCHNEIDER of Penobscot

Representatives:

DAVIS of Falmouth

FINCH of Fairfield

**READ.**

Representative NORTON of Bangor moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending her motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Make Fairs and Festivals Safer for Children"

(H.P. 664) (L.D. 954)

Signed:

Senators:

MAYO of Sagadahoc

MARTIN of Aroostook

ROSEN of Hancock

Representatives:

PINGREE of North Haven

GROSE of Woolwich

MILLER of Somerville

BURNS of Berwick

SHIELDS of Auburn

CAMPBELL of Newfield

LEWIN of Eliot

GLYNN of South Portland

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Representatives:

WALCOTT of Lewiston

WEBSTER of Freeport

Representative SOCKALEXIS of the Penobscot Nation - of the House - supports the Majority **Ought Not to Pass** Report.

**READ.**

Representative PINGREE of North Haven moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The **SPEAKER**: The Chair recognizes the Representative from Rockport, Representative Bowen.

Representative **BOWEN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I will be very quick. I realize I have three strikes against me - this is my bill by the way - I have an 11-2 report, I'm between all of you and your lunch, and I am at risk to loosing the Carnie vote with this bill.

This bill is a very simple bill. It came out of an experience which I had with my daughters, who are two and five, this summer at one of the Maine fairs that we all go to of having the ride operator operating the ride for these kids, smoking on the job and picking up little kids with a cigarette between his fingers and putting the kids in and out of the spinning tea cups with a cigarette dangling out of his mouth. I felt as though we don't really allow that kind of thing around children in almost any other arena I can think of, indoors or out, not on playgrounds or anything like that. So, I felt that we could make a very easy, simple change to the law to prohibit people who are operating

rides from smoking on the job. It doesn't ban smoking around the rides, it doesn't ban people near the rides from smoking, it doesn't ban people on fairgrounds from smoking. It was narrowly targeted so that the people who are operating rides and picking up little kids and putting them in and out of the spinning boats couldn't be smoking while they were doing that. That is all I was trying to do here.

I realize I have the committee against me, they seem to think I was bringing down the heavy hand of government by doing this and I will let the Representative from North Haven speak to that but I would appreciate your support. This is a very simple thing we can do that would make one little tiny corner of this state a little bit better for children. Thank you and I request a roll call.

The same Representative **REQUESTED** a roll call on the motion to **ACCEPT** the Majority Ought Not to Pass Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative **PINGREE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I agree with the Representative from Rockport that it is almost lunchtime, so I will make this very brief and is not normal that I am on the side of less government and he is on the side of more government, but in this we felt that the situation that he brought for us is one that is certainly not ideal. Thinking of people around kids with cigarettes dangling out of their mouths is very unappealing, but we felt that this bill was almost too narrow. To start limiting smoking in outdoor workplaces is quite a complicated arena to enter into.

I am sure you will all look forward to a number of smoking bills that will come out of our committee this year and this is one of the few that we didn't support. I think we heard from the Bureau of Health and other places that this would require a lot of work. The difference between rides for kids and rides not for kids, outdoor smoking in work places, it is all very complicated.

I appreciate the Representative's effort on this and I certainly sympathize with him but at this time we just didn't feel that this was an appropriate action. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 128**

**YEA** - Adams, Ash, Babbidge, Barstow, Beaudette, Bierman, Blanchard, Blanchette, Bliss, Bowles, Brannigan, Brautigam, Browne W, Bryant, Burns, Cain, Canavan, Clark, Collins, Craven, Cressey, Crosby, Cummings, Daigle, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Faircloth, Farrington, Finch, Fisher, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Lerman, Lindell, Lundeen, Makas, Marean, Marley, Marraché, McKane, McKenney, Miller, Mills, Moody, Moore G, Muse, Nass, Norton, Nutting, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Richardson D, Richardson E, Richardson W, Rines, Sampson, Saviello, Seavey, Shields, Smith N, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Watson, Wheeler, Woodbury, Mr. Speaker.

**NAY** - Annis, Austin, Bishop, Bowen, Brown R, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Crosthwaite, Curley, Curtis, Davis G, Davis K, Duprey, Eder, Edgcomb, Emery, Fitts, Fletcher, Flood, Hall, Hotham, Jacobsen, Jodrey, Joy, Lansley, Mazurek, McCormick, McFadden, McLeod, Merrill, Millett, Moulton, Pinkham, Plummer,

Rector, Richardson M, Robinson, Rosen, Sherman, Vaughan, Walcott, Webster.

**ABSENT** - Berube, Fischer, Kaelin, Koffman, Lewin, O'Brien, Schatz, Stedman.

Yes, 97; No, 46; Absent, 8; Excused, 0.

97 having voted in the affirmative and 46 voted in the negative, with 8 being absent, and accordingly Majority Ought Not to Pass Report was **ACCEPTED** and sent for concurrence.

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By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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The Chair laid before the House the following item which was **TABLED** earlier in today's session:

**HOUSE DIVIDED REPORT** - Majority (7) **Ought to Pass as Amended** - Minority (6) **Ought Not to Pass** - Committee on **UTILITIES AND ENERGY** on Bill "An Act Establishing Minimum Energy Efficiency Standards for Certain Products Sold or Installed in the State

(H.P. 999) (L.D. 1435)

Which was **TABLED** by Representative **CUMMINGS** of Portland pending the Motion of Representative **BLISS** of South Portland to **ACCEPT** the Majority Ought to Pass as Amended Report. (Roll Call Ordered)

The **SPEAKER**: The Chair recognizes the Representative from Turner, Representative Bryant-Deschesne.

Representative **BRYANT-DESCHESNE**: Mr. Speaker, may I pose a question through the Chair?

The **SPEAKER**: The Representative may pose her question.

Representative **BRYANT-DESCHESNE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I had a few questions on this that I was going to ask before the debate ended and I would like to take just a quick moment to do that. First of all, I am wondering why we are doing this when the standards have not been developed and won't be until January 6th according to the fiscal note? Secondly, I am wondering what happens to a military family who is living in another state and moves to the State of Maine and would like to bring their appliances and have them installed in their home?

According to my reading of the bill - and someone can correct me - if they are paying to have someone install these in their home that cannot be done. I think another thing that, as Mainers, we often do is take our old appliances and put them in our summer camps or other places where we only use them for short periods of the year. It sounds to me like this bill would also prevent us from doing that. So, I would ask if anyone has an answer to that?

The **SPEAKER**: The Representative from Turner, Representative Bryant-Deschesnes has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from South Portland, Representative Bliss.

Representative **BLISS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I want to thank the Representative for the three questions, which I will do my best to answer.

The answer to the first question, why are we doing this when the standards aren't going to be created until 2007, the answer is that the standards are created, but there is a trigger mechanism in the bill that says among other things that none of these standards go into affect until at least three other states have passed the standard for that same appliance and the first of those cannot be implemented until 2007. The standards exist,