

# MAINE STATE LEGISLATURE

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

**Daily Edition**

**First Regular Session**

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Kennebec, Senator MASON of Androscoggin, Senator McCORMICK of Kennebec, Senator PATRICK of Oxford, Senator PLOWMAN of Penobscot, President RAYE of Washington, Senator RECTOR of Knox, Senator ROSEN of Hancock, Senator SAVIELLO of Franklin, Senator SCHNEIDER of Penobscot, Senator SHERMAN of Aroostook, Senator SNOWE-MELLO of Androscoggin, Senator SULLIVAN of York, Senator THIBODEAU of Waldo, Senator THOMAS of Somerset, Senator TRAHAN of Lincoln, Senator WHITTEMORE of Somerset, Senator WOODBURY of Cumberland.

On **OBJECTION** of Representative TILTON of Harrington, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Harrington, Representative Tilton.

Representative **TILTON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today to speak in memory of a former member of this body, Frank Farren, Jr., who served in the Maine House of Representatives from 1986 until 1994.

I first knew Frank Farren, Jr., when he was my State Representative and when I last knew Frank, I was his State Representative. As is the case, in small towns and in a small state like Maine, we shared many connections that we never knew about until we met which wasn't until about 1990. For instance, he and my father attended Cherryfield Academy in the '50s, though my father was three years ahead of him. Naturally they knew each other well. In 1980, my best friend from college who was from Orono was also his niece, and he and my current employer who is from Yarmouth have been close friends for many years. So even though I only knew him personally for 20 years, we have been somehow connected all my life.

As my State Representative I knew Frank as a good and fair man, a man who never resisted a challenge and who always dealt with me respectfully and with real concern. As Frank's State Representative I feel obligated to tell those who did not know him about his legacy.

From 1970 until 1986, he worked at the Maine Department of Conservation and began the state snowmobile program. His contribution was so enduring that in 1997 he was inducted into the International Snowmobile Hall of Fame in Minnesota. The program Frank started resulted in our enviable network of world-class snowmobile trails, has changed the way we recreate in Maine, and has provided an important source of economic activity to parts of the state that may not enjoy it otherwise. We should all leave such an indelible mark on the state we love. Thank you, Mr. Speaker.

Subsequently, the Sentiment was **ADOPTED** and sent for concurrence.

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**REPORTS OF COMMITTEE**  
**Divided Reports**

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Amend the Laws Governing the Sale of Certain Tobacco Products"

(H.P. 831) (L.D. 1119)

Signed:

Senators:

McCORMICK of Kennebec  
FARNHAM of Penobscot

Representatives:

MALABY of Hancock

O'CONNOR of Berwick  
PETERSON of Rumford  
SANDERSON of Chelsea  
SIROCKI of Scarborough  
STUCKEY of Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-310)** on same Bill.

Signed:

Senator:

CRAVEN of Androscoggin

Representatives:

STRANG BURGESS of Cumberland  
EVES of North Berwick  
FOSSEL of Alna  
SANBORN of Gorham

**READ.**

Representative STRANG BURGESS of Cumberland moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The **SPEAKER**: The Chair recognizes the Representative from Cumberland, Representative Strang Burgess.

Representative **STRANG BURGESS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is one of these issues that we have worked long and hard here in the Legislature over the last three or four sessions in trying to make smoking less attractive for our young people. There are a number of products that have been exempted by the Attorney General. We haven't been able to get to them. We keep trying to figure out how to do it. Unfortunately, I failed trying to do it with this bill, but I think it is a subject matter. For the first time we know smoking is increasing in our youth and people need to pay attention to that as an issue. Really, Mr. Speaker, that is all I have to say on this. Thank you.

Representative CAIN of Orono **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 Gorham, Representative Sanborn.

Representative **SANBORN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As I see it this bill is a public health bill and a pro business bill. It attempts to remove more of the flavored cigar wraps and blunts from the market, products that clearly are out there to appeal to our kids. We know that the earlier children start smoking the more addicted they become, the more likely they are to be lifelong smokers. We also know that this is clearly a health risk and creates more chronic illness and more costs to our health care system. In a time when we are trying to decrease the cost of health care, decrease the cost of health insurance, it just makes no sense to not remove more of the products from the market that we can.

There is no point in getting in the middle of the arguments between the various segments of the tobacco industry and that is in part what this bill is doing and why you are getting handouts to vote one way or the other. The folks that are selling the flavored cigars want to keep their share of the market. The folks that are selling flavored wraps and blunts want their share of the market. The point is we should get as many of these products that are to induce children to start smoking off of the market, and for that reason, I would encourage you to vote against the motion on the floor. Thank you.

Under suspension of the rules, members were allowed to remove their jackets.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative O'Connor.

Representative **O'CONNOR**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to say right up front I hate cigarettes, I hate tobacco products. My husband is a smoker. I make him smoke outside in the rain. If it is not raining, I spray the hose on him.

That being said, what this does is makes Maine an outlier once again and it hurts businesses. I represent two small border towns and what this does is take away revenue. People will sail across the border. They will buy these products. They are legal nationwide. Until we can ban tobacco products for what they are, these products will continue to be sold. We need the revenue in the State of Maine. If we don't have it, then we will surely remain in this economic decline.

The SPEAKER: The Chair recognizes the Representative from Sabattus, Representative Wood.

Representative **WOOD**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is just another nanny bill. You know it's just us saying you're not smart enough to make the right decision. So I am going to support this Ought Not to Pass.

The SPEAKER: The Chair recognizes the Representative from North Berwick, Representative Eves.

Representative **EVES**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would perhaps tend to agree with the nanny state comment, except that this really targets kids and I think that we need to take special attention here and slow down and really think about what this bill does.

In committee, I think there was a consensus that we wanted to do away with all of them, but because of the fiscal impact of that, we took what we could. We compromised and said this is what we can get, understand the fiscal implications of banning all flavored wrappers and we settled on that. Representative Sanborn is correct. This is a market share fight between the industry. We decided to side on the side of public health and get what we could get at this point and continue to work on the issue.

Related to the loss revenue, I think that that's a hollow analysis in the amount of revenue that is lost related to these flavored wrappers. I as well represent border communities. I respect Representative O'Connor's comments about that, but I did not hear from any of my convenience stores and I do think that we need to decide, err on the side of public health, and I hope that you would support, follow my light and go red. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Prescott.

Representative **PRESCOTT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm a health advocate. I've been a health advocate pretty much my whole entire life, majored in physical education, became a martial artist, and have advocated for many, many things that make you healthier.

I, too, used to make my mother's life as a smoker miserable. I used to stick pins in her filters and I used to break her cigarettes and put them back in the carton. She used to get very angry with me. She quit at the age of 50.

But I don't believe that we should be mandating things like this. This is equivalent to banning the flavor in your favorite soft drink or what you put on your nacho chips or a diet product or perhaps your favorite flavored vodka or rum. Or maybe we want to decide which flavoring you're going to add to your daily cup of coffee. You can't legislate these things. People need to make these decisions on their own. Thank you.

The SPEAKER: The Chair recognizes the Representative from Chelsea, Representative Sanderson.

Representative **SANDERSON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would just like to point out that like all tobacco products, these wraps are behind the counter. They cannot be sold to anybody who is under the legal age for which to buy them. So this is an adult issue. I don't think many of our kids are actually buying these things because they can't.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Celli.

Representative **CELLI**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I keep hearing about how our kids are getting addicted to this, how they are not allowed to buy it. The number one health issue in the State of Maine for our children is obesity. We are number one in the nation in childhood obesity so perhaps we should consider banning the barbecue flavoring that goes on barbecue potato chips, perhaps the pizza flavoring that goes on pizza potato chips, and any other type of flavoring that goes on any food that is high in calories and low in nutritional value. Thank you.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Eberle.

Representative **EBERLE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I cannot believe we are basing an argument for economic development on the sale of a product that, when used as directed, will kill you.

The SPEAKER: The Chair recognizes the Representative from North Yarmouth, Representative Graham.

Representative **GRAHAM**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As a health care provider I have committed my entire adult life to caring for children's health and I agree with the good Representative from South Portland. This is not an economic development issue. This is a health issue.

I said goodbye to my father two years ago, a man who dedicated his life to health care. You know what he died of? Lung cancer. This bill will make tobacco products not as appealing to everyone, so I urge you all to vote red on this. This is a public health issue. This is not an economic development issue. Thank you, Mr. Speaker.

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. 76

YEA - Ayotte, Baulieu, Bennett, Bickford, Black, Burns DC, Burns DR, Cebra, Celli, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow, Dunphy, Edgcomb, Espling, Fitts, Flood, Foster, Fredette, Gifford, Gillway, Hamper, Hanley, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knight, Libby, Long, Maker, Malaby, McCabe, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Newendyke, O'Brien, O'Connor, Olsen, Parker, Parry, Peterson, Picchiotti, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Sanderson, Sarty, Sirocki, Tilton, Timberlake, Turner, Volk, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beaudoin, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Dill J, Driscoll, Duchesne, Eberle, Eves, Fitzpatrick, Fossel, Gilbert, Goode, Graham, Guerin, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Innes Walsh, Kaenrath, Kent, Knapp, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, Morrison, Nelson, Peoples, Pilon, Priest, Rankin, Rochelo, Rotundo, Russell, Sanborn, Shaw, Stevens, Strang Burgess, Stuckey, Theriault, Treat, Tuttle, Valentino, Wagner R, Webster, Welsh.

ABSENT - Dion, Flemings, Wintle.

Yes, 76; No, 71; Absent, 3; Vacant, 1; Excused, 0.

76 having voted in the affirmative and 71 voted in the negative, 1 vacancy with 3 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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Majority Report of the Committee on **LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Bill "An Act To Raise the Minimum Wage" (H.P. 340) (L.D. 447)

Signed:

Senators:

RECTOR of Knox

MARTIN of Kennebec

Representatives:

PRESCOTT of Topsham

DOW of Waldoboro

NEWENDYKE of Litchfield

VOLK of Scarborough

WINTLE of Garland

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

Signed:

Senator:

JACKSON of Aroostook

Representatives:

DRISCOLL of Westbrook

GILBERT of Jay

HERBIG of Belfast

HUNT of Buxton

TUTTLE of Sanford

**READ.**

Representative PRESCOTT of Topsham moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative CAIN of Orono **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 Topsham, Representative Prescott.

Representative PRESCOTT: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Raising the minimum wage at this point in time is not the time to be doing this. This bill would raise the minimum wage to \$7.75 an hour by October 1, 2011 and again to \$8 an hour on October 1, 2012. This has a direct impact on our businesses. It has a domino effect if you will. I believe that this is not the time and I think you will be hearing from others that will speak on this bill, but I urge

the Majority Report of Ought Not to Pass. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Bennett.

Representative BENNETT: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. We've been small business owners for many, many years now. It just seems to be getting tougher and tougher to make a living. You don't realize that when this minimum wage is actually raised, of which we haven't been involved with it for probably in 30 years, we'd pay more than that. But when you raise it, you also raise other costs in your business, around 12 percent.

I've had people come to me complaining as a State Representative about the increase, the actual doubling of the unemployment insurance in this state. The burden is on business and I would ask you to look out the window today. It has been raining for 11 days. It is a retail wrecker. I had to work last Friday and I think I worked for free. Follow my light please. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Mazurek.

Representative MAZUREK: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We've had this type of issue before. We've talked about hours and wages in this House and when is the right time to do something and when is the right time not to do it. We can make arguments on both sides, but this issue deals with – we always talk about the poor people of Maine. Who does this bill affect? It affects the young and I believe the elderly, particularly the young because most of them are just starting out. But they are not kids, they are young adults, and they have the responsibility of young adults.

Many of them are going to graduate from high school and take their place in the workforce. Many of them will be starting out at minimum wage, but they have adult responsibilities. They have bills to pay. Many of them will have families. These are the people that need a boost in their life. They are not going to take this \$0.25 or \$0.50 an hour and tuck it into a bank somewhere.

They don't have that luxury of excess capital. They will take that money and spend it in the stores and in their communities and you will see everyone benefit from it. Don't be shortsighted on this. These people will take this money and they are going to spend it in their local communities and help the communities out.

I know many elderly people who are working at minimum wage jobs to supplement their retirement. These people also are suffering a great deal. Their costs are going up. Their heating is going up. Their fuel and their food are going up. Yes, everything is going up but the wages, and we wonder why Maine is in the situation we are. We're not doing much to help ourselves. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative TUTTLE: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I hope that you will oppose the pending motion and will accept the Ought to Pass Report. As has been mentioned, what this bill does, it increases the minimum wage \$0.25 per hour on October 1, 2011 and it goes up another \$0.25 on October 1, 2012.

Now before I put the bill in, I do understand the concerns of small business. I do understand the concerns of the economy. You know but it is sort of a balancing act. I do hear, as the good Representative from Rockland says, the cries of the elderly that are, many of them who had never thought at their age that they would have to go back to work but do. You know a \$0.25 increase, \$10 a week, can be a matter of life and death for them in their survival. I think we have to weigh this. I always say that the people that are getting minimum wage aren't going to squirrel