MAINE STATE LEGISLATURE

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Senate Legislative Record

One Hundred and Thirty-First Legislature

State of Maine

Daily Edition

First Special Session

Beginning April 5, 2023

Beginning with Page S-387

On motion by Senator **STEWART** of Aroostook, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#303)

YEAS: Senators: BAILEY, BALDACCI, BEEBE-CENTER, BRENNER, CARNEY, CHIPMAN, CURRY, DAUGHTRY, DUSON, GROHOSKI, INGWERSEN, LAFOUNTAIN, NANGLE, PIERCE, RAFFERTY, RENY, ROTUNDO, TIPPING, VITELLI, PRESIDENT JACKSON

NAYS: Senators: BENNETT, BLACK, BRAKEY, GUERIN, HARRINGTON, HICKMAN, KEIM, LIBBY, LYFORD, MOORE, POULIOT, STEWART, TIMBERLAKE

EXCUSED: Senators: FARRIN, LAWRENCE

20 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 2 Senators being excused, the motion by Senator **BALDACCI** of Penobscot to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Divided Report

The Majority of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Prohibit the Sale of Tobacco Products in Pharmacies and Retail Establishments Containing Pharmacies"

H.P. 1003 L.D. 1558

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-425)**.

Signed:

Senators:
BALDACCI of Penobscot
INGWERSEN of York

Representatives:
MEYER of Eliot
CRAVEN of Lewiston
GRAHAM of North Yarmouth
MADIGAN of Waterville
SHAGOURY of Hallowell
ZAGER of Portland

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

Signed:

Senator:
MOORE of Washington

Representatives:
FREDERICKS of Sanford
GRIFFIN of Levant
JAVNER of Chester
LEMELIN of Chelsea

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-425)**.

Reports **READ**.

Senator **BALDACCI** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

On motion by Senator **STEWART** of Aroostook, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **BALDACCI**: Thank you, Mr. President. I rise in support of the committee report on this matter. Maine's cancer incidence rate is significantly higher than the national average, and that is driven largely by higher-than-average tobacco-related use and tobacco-related cancers. Maine has the 16th highest rate of adult smoking, ninth highest rate of smoking-related cancer deaths. You may be surprised that Maine's rate is higher than that of Georgia, Florida, North Carolina, and Texas. An estimated 2,400 smoking-related deaths each year in Maine, including nearly 34% of - are cancer deaths. Smoking is estimated to cost Maine $942 million in direct healthcare costs, including $281 million in Medicaid costs annually. Selling tobacco in pharmacies sends a mixed message to consumers about the dangers of tobacco products and access - easy access to a product encourages its use. Pharmacies are in the business of helping to support peoples' health. Pharmacists are some of the most trusted healthcare professionals and important members of the healthcare team. According to a study in the Journal of American Medical Association, when filling prescriptions for chronic illnesses worsened by smoking, one in 20 customers also purchased cigarettes. Some of the strongest evidence in support of tobacco-free pharmacy laws comes from a study from the Journal of Preventive Medicine which found that after the chain CVS stopped selling tobacco in September of 2014, cigarette pack sales decreased, and nicotine patches increased in states where the chain had a large retail presence. And additionally, adolescents and young adults are uniquely vulnerable to the effects of nicotine and nicotine dependence, causing lasting adverse consequences on brain development. Here in Maine, nearly one in five high school students used some form of tobacco products in the last 30 days, including nearly 30% of 12th graders. Through FDA compliance data, we know that some very large pharmacy chains still sell tobacco products and still sell them to underage individuals. While the movement is growing and a number of pharmacies have voluntarily joined this effort,

this will be an important public health measure, an important way to reduce our what we have as a higher-than-average use of tobacco and a higher-than-average incidence of cancer.

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

Senator **MOORE**: Thank you, Mr. President. I appreciate the good Senator from Penobscot's information about the smoking situation in Maine, and we all agree that there is a lot of illness that we do have in relation to that. This bill, however, is actually making that - excuse me - any pharmacy that has - let me start over again, pardon me. What it does is it makes a pharmacy ineligible for a retail tobacco license and provides that a pharmacy or retail establishment containing a pharmacy that engage in retail sales of tobacco products commits a civil violation, and it gets a very, very strong penalty for just a business decision. CVS made that decision themselves, it was a market decision, and there are other markets out there that are doing the same thing.
I do not feel that we should be putting this into statute and requiring and having a say as to a business decision that needs to be made on a local basis. Thank you.

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

Senator **INGWERSEN**: Thank you, Mr. President. I just wanted to mention, as I will be supporting this motion, that the remaining large pharmacies in Maine - Walgreens, Walmart, and Shaw's - that currently sell tobacco, they - none of those pharmacies have testified against this bill. I just wanted to mention that.

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

Senator **DAUGHTRY**: Thank you, Mr. President. Men and women of the Senate, I rise in support of the pending motion as both a legislator and also as the granddaughter of two pharmacists. This is something that is a reasonable step. As my good colleague said, none of the major pharmacies testified against this bill. Additionally, the Journal of the American Medical Association did a survey and study where they found that one in 20 customers bought cigarettes while filling prescriptions for chronic illnesses that were made worse by additional smoking. While folks are often at the pharmacy to be able to get things that they might be doing for smoking cessation, I've heard from my constituents the struggle of when they are going to get their nicotine patch or other smoking cessation products while seeing literally what they're trying to break away from available for sale. I think this is a great measure, and it was shared, CVS and Hannaford have already started doing this and other large pharmacies are as well.

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

Senator **BRAKEY**: Thank you, Mr. President. I wasn't going to speak, but then I see that a lot of folks on the other side are speaking, and I just wanted to say my piece very quickly. You know, we've had bills like these come through HHS in the past. Let me - let me preface by saying I think like a lot of members of this Chamber, I hate smoking, I've never smoked a day in my life. I remember as a kid coming up, talking - talking with adults who were smoking and everyone who was a smoker always seemed to tell me that they were trying to quit smoking, and so I thought that was a good lesson as a kid, well, if everyone's trying to quit, why would I start? But I think -- and I'm encouraged when I see pharmacies like CVS and other pharmacies voluntarily adopting policies in the marketplace to not sell cigarettes, I think that's great, but I think it's also encouraging as Senator Moore has highlighted those market decisions are already taking place. It seems to me that this is kind of the epitome of nanny state government to kind of come in with this attitude that we know better as far as - as far as what decisions adults should be making in their own lives in regards to smoking, to the point where we're going to come in and tell private businesses what their policies need to be. That - that just doesn't seem the appropriate place of government to me, especially when we see the market is already moving in that direction without our assistance. I know sometimes we like to see a parade that's marching on, and we like to hop in front of it in government to act like we're, you know, leading the parade, but this is already happening in the marketplace, it doesn't need our assistance. In fact, I think that we would be overstepping the bounds of limited government to pass something like this. Thank you, Mr. President.

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

Senator **CARNEY**: Thank you, Mr. President, and thank you, colleagues. I just rise briefly to speak in support of the Ought to Pass as Amended Report. I know that some of us have the - are focusing on the fact that there are - these are market decisions that should be made by private businesses, but I just want to bring us all around to what the good Senator from Penobscot said, there are very serious, in fact deadly public health consequences that are impacting our state budget. First of all, the health consequences, we lose 2,400 Mainers every year to illnesses caused by tobacco use, and we spent $281 million a year in Medicaid costs to treat people who are suffering from these illnesses. So, unlike other market and private business decisions, this has a very significant public health element to it, and I ask my colleagues to support the pending motion.

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

Senator **GUERIN**: Thank you, Mr. President. My vote on this will probably surprise most people in the Chamber, but my father died from the effects of tobacco addiction, and the tobacco companies have immunity from liability. Whenever they're willing to give up that immunity, I'd be happy to give them the freedom of the market. But I think where government is protecting them, we have an interest in protecting our people that are not able to sue the tobacco companies.

THE PRESIDENT: The pending question before the Senate is Acceptance of the Majority Ought to Pass as Amended Report. A roll call has been ordered. Is the Senate ready for the question?

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#304)

YEAS: Senators: BAILEY, BALDACCI, BEEBE-CENTER, BRENNER, CARNEY, CHIPMAN, DAUGHTRY, DUSON, GROHOSKI, GUERIN, HICKMAN, INGWERSEN, LAFOUNTAIN, NANGLE, PIERCE, POULIOT, RAFFERTY, RENY, ROTUNDO, TIPPING, VITELLI, PRESIDENT JACKSON

NAYS: Senators: BENNETT, BLACK, BRAKEY, CURRY, HARRINGTON, LIBBY, LYFORD, MOORE, STEWART, TIMBERLAKE

EXCUSED: Senators: FARRIN, KEIM, LAWRENCE

22 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 3 Senators being excused, the motion by Senator **BALDACCI** of Penobscot to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence, **PREVAILED**.

Bill **READ ONCE**.

Committee Amendment "A" (H-425) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Divided Report

The Majority of the Committee on **HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES** on Bill "An Act to Ensure Access to Newly Born Male Infant Circumcision by Requiring MaineCare and Health Insurance Coverage"
H.P. 392 L.D. 615

Reported that the same **Ought Not to Pass**.

Signed:

Senators:
BAILEY of York
BRAKEY of Androscoggin

Representatives:
PERRY of Calais
CLUCHEY of Bowdoinham
CYRWAY of Albion
MATHIESON of Kittery
MORRIS of Turner
NUTTING of Oakland
SWALLOW of Houlton

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-403)**.

Signed:

Senator:
RENY of Lincoln

Representatives:
ARFORD of Brunswick
MASTRACCIO of Sanford
PRINGLE of Windham

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **BAILEY** of York, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Divided Report

The Majority of the Committee on **HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES** on Bill "An Act to Protect Maine Patients Regarding Hospital Price Transparency"
H.P. 600 L.D. 953

Reported that the same **Ought Not to Pass**.

Signed:

Senators:
BAILEY of York
RENY of Lincoln

Representatives:
PERRY of Calais
ARFORD of Brunswick
CLUCHEY of Bowdoinham
MASTRACCIO of Sanford
MATHIESON of Kittery
PRINGLE of Windham

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-400)**.

Signed:

Senator:
BRAKEY of Androscoggin