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Legislative Record

House of Representatives

One Hundred and Thirty-First Legislature

State of Maine

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Beginning with Page H-1190

Expression of Legislative Sentiment Recognizing the Maine Central Institute One Act Drama Team, of Pittsfield

(HLS 908)

TABLED - March 27, 2024 (Till Later Today) by Representative COLLAMORE of Pittsfield.

PENDING - **PASSAGE**.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Collamore.

Representative **COLLAMORE**: Hi, Madam Speaker. Thank you so much. I forgot I had these other two sitting here, and I would've waited until these were done. I just wanted to quickly recognize Addie, Addison Verrill, who was awarded the Maine Principal Association's award for Maine Central Institute and would also like to recognize and congratulate our One Act Drama Team, who won the regional competition. Thank you, Madam Speaker.

Subsequently, this Expression of Legislative Sentiment was **PASSED** and sent for concurrence.

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

HOUSE DIVIDED REPORT - Report "A" (7) **Ought to Pass as Amended by Committee Amendment "A" (H-842)** - Report "B" (4) **Ought Not to Pass** - Report "C" (2) **Ought to Pass as Amended by Committee Amendment "B" (H-843)** - Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Prohibit Tobacco Sales near Schools"

(H.P. 1383) (L.D. 2157)

TABLED - March 21, 2024 (Till Later Today) by Representative MEYER of Eliot.

PENDING - **ACCEPTANCE OF ANY REPORT**.

Representative MEYER of Eliot moved that the House ACCEPT Report "A "**Ought to Pass as Amended**.

Representative FAULKINGHAM of Winter Harbor **REQUESTED** a roll call on the motion to **ACCEPT** Report "A "**Ought to Pass as Amended**.

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 Chester, Representative Javner.

Representative **JAVNER**: Thank you, Madam Speaker, Men and Women of the House. I just want to rise and very briefly speak to this, my opposition to this motion. What this bill does is makes it so that it is impossible for a retailer that is 300 feet away from a school to have their license renewed to sell tobacco products. And I had an interesting assignment for my custodian of a school that is close to my district this last weekend, I had called them and asked them if they could actually measure something for me, so, they did that. So, it brings up some interesting questions.

However, what I want to do is read a little bit of a couple statements from our Maine School Boards Association that I find very, very important to this issue. They say that there is already the responsibility of the establishment to correctly and legally check the identifications of all persons purchasing tobacco, and there is a Statute already in law, Title 22, Section 1555-B, and it says a person may not sell, furnish or give away or offer to any person that has not attained 21 years of age, unless the person has attained 18 years of age as of July 1, 2018. What we can do as public schools is continue to educate students about the health dangers related to smoking. The National Center for Disease Control recommends that all schools develop and enforce a policy on tobacco use, provide instruction about the short- and long-term negative effects and provide tobacco use prevention education in kindergarten through grade 12, with the particular emphasis on students aged 15 or older. I suggest we support our businesses in the State and also support our schools in encouraging them for more education. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Moonen.

Representative **MOONEN**: Thank you, Madam Speaker. Madam Speaker, Colleagues of the House, I rise as the sponsor of this bill. I really appreciate the comments from my colleague from Chester. We've had a very interesting dialogue and exchange of information about this bill over the last several weeks. Really appreciate that, and really appreciate her going to the efforts to verify measurements. That's dedication right there.

I just want to say that the report before us is actually 500 feet, the Majority Report. Just for a little bit of context, we already have a law that prohibits the sale of cannabis within 1,000 feet of a school, we already have a law that prohibits the sale of liquor within 300 feet of a school. As I said, the Report before us is 500 feet, but I have heard from colleagues, and I appreciate their transparency and their honesty about their discomfort with the current 500 feet. So, having heard that discomfort, I would be happy to change to do the 300 feet, which would match existing law around liquor sales near schools.

It is late, so, I won't bore you with a lot of information about the long and extensive history of the tobacco industry's targeting of kids, but I will just say it is ongoing and it seems pretty modest to me to adopt this bill, since we have similar laws for similar products that should not be accessible to kids. And so, I ask you to support this report and then I would be happy to change it to 300 feet. Thank you very much, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Perry.

Representative **PERRY**: Thank you, Madam Speaker, I'd like to pose a question through the Chair.

The SPEAKER: The Member may proceed.

Representative **PERRY**: Does this bill, at 300 feet or 500 feet, grandfather existing businesses, or will this bill prohibit the renewal of existing tobacco licenses? Thank you.

The SPEAKER: The Member has posed a question through the Chair. The Chair recognizes the Representative from Portland, Representative Moonen.

Representative **MOONEN**: Thank you, Madam Speaker. I rise to answer the question. The Report in front of us does not grandfather existing businesses. The Report in front of us, at 500 feet, would affect 10 existing businesses. That ties back to what I said a moment ago about hearing the concern for Members who have shared concern with me about that. At 300 feet, this would affect one existing business, and since I'm sure the question is coming, I'll just share with you now; that business is in my district, this business sells tobacco 26 feet from a school and I would like that to stop. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Chester, Representative Javner.

Representative **JAVNER**: Thank you, Madam Speaker. I would just simply add to the answer to that question that it does not grandfather any businesses.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Perry.

Representative **PERRY**: Thank you, Madam Speaker. I had un-pushed my button, but I'm up now, right?

I'm in the store business, I'm more than 300, 500, probably 1,000 feet from any school, and I'm a food store that serves a

food desert, a very high-need neighborhood. I'm the only thing they've got and they tell me all the time I'm their lifeline. I couldn't operate, and I don't know any stores that could operate without their tobacco license. That's just the way it works. That brings people in. I don't like it. I celebrate every customer who quit smoking. If this was 300 feet, 500 feet or 1,000 feet, prospective, count me in; I'd be on board. Going out of business in a convenience store is very painful. It's not like a jewelry store with high markups. You can't liquidate your product. It costs 10s and 10s of thousands of dollars for any individual business to shut down. I don't know of any convenience store, neighborhood store, that can survive without their tobacco license or, quite frankly, their beer and wine license.

So, I don't want stores 26 feet away from schools selling tobacco, but in this day and age, the worst practices of Big Tobacco have been against the law for decades. I do no advertisement, I've got no banners, no signs, no product accessible to anyone. The actual age is 21, I think that was old Statute that said 18. They do compliance checks on us all the time; no store wants to sell or get caught selling, risk selling to a minor. The minors I see in the neighborhood who get it; other kids, older kids, sometimes parents are buying it for them.

So, if this put no one out of business or was prospective, you could count me in for any setback, but just personally, I can't bring myself to vote for something that will put even one business, potentially, out of business and what that might do to their family, their employees, their customers. And quite frankly, I think putting, potentially putting one business out of business doesn't do a lot to address the tobacco issue. Maybe a 300-; maybe a 500- or 1,000-foot setback might prevent stores from being close to schools in the future and maybe that would do something and I would be there, but I just can't vote for this bill. Thank you, Madam Speaker.

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

Representative **GRAHAM**: Thank you, Madam Speaker, Ladies and Gentlemen of the House. Many of you know that I'm a retired pediatric nurse practitioner. I've spent my entire career trying to prevent illness. My entire career. If there's one little thing I can do to get one less person to be addicted to tobacco, I would do it. I'm pleased to hear that there's only one store that will be affected, and I also want to thank the sponsor for bringing the distance down to 300, it makes a lot of sense. So, I urge you to support this to avoid one less person becoming addicted to tobacco. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Libby.

Representative **LIBBY**: Thank you, Madam Speaker. Madam Speaker, I grew up in a little town called Cornish, and my siblings and I, from a pretty young age, we would walk around the corner to a little corner store and one of our favorite pastimes was that we would pick up cans along the way and we would redeem those cans at the store very regularly and buy candy bars. Now, that store sold all kinds of products, including tobacco, including alcohol. I never even attempted to buy tobacco at that store when I was growing up, Madam Speaker. I can tell you one of my sisters, black sheep of the family, she did smoke when we were growing up. Not anymore, she's healthy, you know, not smoking anymore, but she did as a teen, from wherever she could get it. I don't know, maybe it was from the corner store, from a friend that was an older age.

Are kids no longer going to live near stores? Like, is school the only place that children inhabit? That's ludicrous. Are we going to legislate that you can't sell cigarettes near a church or near a park? I mean, kids go to the park, too. The kids in the neighborhoods in Auburn have the easiest access to the neighborhood stores, not when they're at school, but when they're at home. Should we legislate that stores can't sell cigarettes, can't sell tobacco, if they are within 300 feet of a home that contains a child? Madam Speaker, this is already illegal. This is ludicrous legislation, micromanaging adults to fix something that we could fix with existing Statute by simply enforcing it. Please have a little common sense and follow my light and vote against this ridiculous bill.

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

Representative **LANIGAN**: Thank you, Madam Speaker. I just rise in opposition to this bill and the main reason, Madam Speaker, is it sounds like this should be held at City Council meeting and not at the House and the Maine Chamber here. And just I don't understand, having home rule and having all those abilities to make those local decisions, we're using this Legislature to micromanage and to shut down a business in someone's community. I would just ask, Madam Speaker, if we can encourage a City Council agenda item instead of a House agenda item. Thank you.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Poirier.

Representative **POIRIER**: Thank you, Madam Speaker. I just need to rise real quickly because I, too, in Skowhegan, have a business that would be affected by this law. The Maine Smoke Shop has been in my town on the rotary, if you've ever been in the Town of Skowhegan. If you haven't, I advise you come; it's a great place to be. But this is a small business that only sells tobacco and related products and years back now, a charter school was put in a building just a couple places down from this smoke shop, so, there is a school right near this well-established business. There's not been any issues with minors from the school at the Smoke Shop and, quite frankly, people that shop in this store are already addicted to tobacco. It's not preventing people from becoming addicted. And these folks have reached out to me, the owners, the employees, fearful that they're going to not have a job to come to because we passed this law. So, there are real people being affected by this.

And I know people are trying to do a good thing, you know, get tobacco out of the hands of people and save lives, but we're affecting the lives of people that are trying to support their families as well and, like I say, this business was well established before the school was put there and I really think that needs to be a consideration, so, I will not be voting in favor of this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Turner, Representative Morris.

Representative **MORRIS**: Thank you, Madam Speaker. I also rise in opposition to this bill. As the Good Representative from Auburn was saying, you know, my grandfather ran a small store in North Turner, Maine. It was well known. Unlike the Good Representative, I didn't have to collect bottles or anything for candy bars; I just told him to put it on my parents' tab. But the issue with this bill is this will hurt small businesses like the one that he ran. There are many of these small businesses; small, single, sole-proprietorship stores near schools.

It's already illegal to sell tobacco to kids under the age of 21. There's already severe fines, there's already operations going on to try and prevent kids under 21 from buying tobacco. So, I would just; this is something that really hurts our small businesses. Tobacco is one of the products that they sell that does help them stay afloat. And the problem is, you're not stopping anybody from smoking, they're just going to go to the larger retailers or they're going to go outside of the State of

Maine. I would rather help Maine's small businesses; I would encourage this Body to reject this motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Guilford, Representative White.

Representative **WHITE**: Thank you, Madam Speaker. Remember last year when you came up to visit Representative Perkins and I? Nice little neighborhood up there, isn't it? As we left the first meeting and drove to the second meeting in Monson, we drove right through Representative Perkins' district. And on that trip, we passed two stores owned by the same company; or three, actually, one in Dover-Foxcroft, one in Guilford and one in Monson, just before we got to our second destination. That first store in Dover-Foxcroft abuts Foxcroft Academy. The owner of that chain of small convenience stores just spent, I don't know, $2 million; do you know the price check? It was significant. He just built a field house and an expansive parking lot and expanded their track and field services. All on his dime, to help the community, because he is such a proud alumnus of Foxcroft Academy.

Are we really going to slap him in the face and tell him that we're going to take his business; that is, his flagship store directly in front of the field and house named for him? And we're going to make that store go out of business because we're going to insult the man that's been providing such a service for Piscataquis County for years, on the second or third generation of this business, that we're going to put his business out of business because he can't afford to keep that store without selling tobacco products, because we feel that we need to change the law? When there's absolutely no sign of him selling tobacco to children. As a matter of fact, he's worked with the local police and done all kind of things to curb such things. And I dare to say there's probably more people around the State just like Jim Robinson; that have poured their life into their community and their alma mater and here we are, going to accuse them of doing something illegal, when we know damn well they haven't. Madam Speaker, this bill needs some work. We shouldn't pass this today. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Moonen.

Representative **MOONEN**: Thank you, Madam Speaker. Madam Speaker, Colleagues of the House, I want to address two points. One is the point about being prospective. This bill does do that. So, although it would affect just one existing business in the State of Maine, it would say that going forward, a tobacco license could not be issued within 300 feet of any school in the State. I think that's a valuable forward-looking approach.

I also want to say that, in reference to all the other stores that have been mentioned by my colleagues across the aisle, I want to reiterate that none of them will be affected by this bill at 300 feet. Not a single one. Like I said, I've heard the feedback, the concern about impact on existing businesses. As for the one in my district, it's not going to go out of business. It's a great store; it sells meats, it has a bakery, it has a deli, it sells produce. And in case you don't know, Madam Speaker, I live in the West End of Portland and there's 9,000 people within a four-block radius. That store is going to have plenty of customers, they're going to be just fine. And I ask you to support the bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Fryberg, Representative Ness.

Representative **NESS**: Thank you, Madam Speaker. May I pose a question through the Chair?

The SPEAKER: The Member may proceed.

Representative **NESS**: Thank you, Madam Speaker. I just was curious; what area of the school property the 300-foot measurement is based off of? Is it the front entrance of the school or is it the property in general? Thank you, Madam Speaker.

The SPEAKER: The Member has posed a question through the Chair to anyone who wishes to answer. The Chair recognizes the Representative from Portland, Representative Moonen.

Representative **MOONEN**: Thank you, Madam Speaker. I just want it clear that I'm rising to answer questions and not to speak for a third time.

The bill, as drafted, says that it's measured from the front door of the business to the main entrance of the school. So, when we were getting the measurements and all this, we got the list of every school's address from DOE; we got the list of every licensed tobacco retailer from DHHS. When you use mapping software to map that, it's going to give you a property line to property line measurement, but that's not actually how it would be measured in the bill. So, you actually have to add length based on driveways, sidewalks; whatever it is that separates the front door of the business from the main entrance of the school.

There was also some questions at the public hearing and, since then, about whether, you know, a football field or something would count, and it would not. It's the main entrance of the school. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Albion, Representative Cyrway.

Representative **CYRWAY**: Thank you, Madam Speaker. It was music to my ears saying, wanted to just keep from one person getting addicted. I thought that was great. If that was true, I would probably vote for this, but it sounds like it's directed at one thing. We've got marijuana shops everywhere, we've got alcohol everywhere, but all of a sudden, it's just targeting this one thing. I just don't understand. My goal is that same thing, but I think we really have to open our eyes and see what we're doing to our kids. Thank you, Madam Speaker.

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

Representative **LANIGAN**: Madam Speaker, thank you for allowing me to rise a second time. I just have a couple of questions if I could ask through the Chair?

The SPEAKER: The Member may proceed.

Representative **LANIGAN**: Thank you, Madam Speaker. First question I have is, it is distance of travel by foot, or is it as the crow flies for measurement from the door to the store? And the second question I have is, did the store owner that is not going to be negatively affected testify in favor of this bill or in opposition of this bill. Thank you.

The SPEAKER: The Member has posed questions through the Chair to any Member who wishes to answer. The Chair recognizes the Representative from Portland, Representative Moonen.

Representative **MOONEN**: Thank you, Madam Speaker. I rise to answer both of those questions. The bill calls for the ordinary course of travel, so, it would not be as the crow flies, you would have to use the ordinary course of travel; roads, walking, whatever it is. And then, the owner of the business did not testify in any regard on this bill. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of Report "A" Ought to Pass as Amended. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 475

YEA - Abdi, Ankeles, Arford, Beck, Bell, Brennan, Bridgeo, Cloutier, Cluchey, Collings, Copeland, Crafts, Craven, Crockett, Dhalac, Dill, Dodge, Doudera, Eaton, Fay, Gattine, Geiger, Gere, Golek, Graham, Gramlich, Hasenfus, Hobbs, Jauch, Kessler, Kuhn, Lajoie, LaRochelle, Lee, Lookner, Malon, Mastraccio, Mathieson, Matlack, Meyer, Millett R, Milliken, Montell, Moonen, Murphy, O'Connell, O'Neil, Osher, Perry A, Pluecker, Rana, Rielly, Roberts, Roeder, Runte, Russell, Sachs, Salisbury, Sargent, Sayre, Shagoury, Shaw, Sheehan, Sinclair, Skold, Stover, Supica, Terry, Warren, White B, Worth, Zager, Zeigler, Madam Speaker.

NAY - Adams, Albert, Arata, Ardell, Babin, Bagshaw, Blier, Boyer, Bradstreet, Campbell, Carlow, Carmichael, Collamore, Costain, Cray, Cyrway, Davis, Drinkwater, Ducharme, Dunphy, Faulkingham, Foster, Fredericks, Gifford, Greenwood, Griffin, Guerrette, Haggan, Hall, Henderson, Hepler, Hymes, Jackson, Javner, Landry, Lanigan, Lemelin, Libby, Lyman, Madigan, Mason, Millett H, Moriarty, Morris, Ness, Newman, Nutting, Parry, Paul, Perkins, Perry J, Poirier, Polewarczyk, Pomerleau, Quint, Rudnicki, Sampson, Schmersal-Burgess, Simmons, Smith, Soboleski, Strout, Swallow, Theriault, Thorne, Underwood, Walker, White J, Wood, Woodsome.

ABSENT - Andrews, Boyle, Galletta, Lavigne, Pringle, Riseman.

Yes, 74; No, 70; Absent, 6; Vacant, 1; Excused, 0.

74 having voted in the affirmative and 70 voted in the negative, 1 vacancy with 6 being absent, and accordingly Report "A" **Ought to Pass as Amended** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-842)** was **READ** by the Clerk.

Representative MOONEN of Portland **PRESENTED House Amendment "A" (H-942)** to **Committee Amendment "A" (H-842)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Moonen.

Representative **MOONEN**: Thank you, Madam Speaker. This amendment simply makes the change from 500 feet to 300 feet, as discussed, which would make it consistent with our law around liquor sales and proximity to schools. Thank you.

Representative JAVNER of Chester **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-942)** to **Committee Amendment "A" (H-842)**.

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 Chester, Representative Javner.

Representative **JAVNER**: I apologize, I just want to speak briefly. I'm still in opposition of the bill, simply for the fact of the grandfathering issue; this still does not remove the grandfather, so, it will still be a detriment to the business. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hodgdon, Representative Quint.

Representative **QUINT**: Thank you, Madam Speaker. I just had a question. Is there a school definition in Statute? Would this also be home-schooling co-ops that were affected by this?

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-942) to Committee Amendment "A" (H-842). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 476

YEA - Abdi, Ankeles, Arata, Arford, Beck, Bell, Blier, Boyer, Bradstreet, Brennan, Bridgeo, Carlow, Cloutier, Cluchey, Collings, Copeland, Crafts, Craven, Crockett, Dhalac, Dill, Dodge, Doudera, Eaton, Faulkingham, Fay, Gattine, Geiger, Gere, Golek, Graham, Gramlich, Hasenfus, Henderson, Hepler, Hobbs, Jauch, Kessler, Kuhn, Lajoie, Landry, Lanigan, LaRochelle, Lee, Lookner, Madigan, Malon, Mastraccio, Mathieson, Matlack, Meyer, Millett R, Milliken, Montell, Moonen, Murphy, Ness, O'Connell, O'Neil, Osher, Perkins, Perry A, Perry J, Pluecker, Poirier, Rana, Rielly, Roberts, Roeder, Runte, Russell, Sachs, Salisbury, Sargent, Sayre, Shagoury, Shaw, Sheehan, Skold, Stover, Supica, Terry, Warren, White B, Woodsome, Worth, Zager, Zeigler, Madam Speaker.

NAY - Adams, Albert, Ardell, Babin, Bagshaw, Campbell, Carmichael, Collamore, Costain, Cray, Cyrway, Davis, Drinkwater, Ducharme, Dunphy, Foster, Fredericks, Gifford, Greenwood, Griffin, Guerrette, Haggan, Hall, Hymes, Jackson, Javner, Lemelin, Libby, Lyman, Mason, Millett H, Moriarty, Morris, Newman, Nutting, Parry, Paul, Polewarczyk, Pomerleau, Quint, Rudnicki, Sampson, Schmersal-Burgess, Simmons, Sinclair, Smith, Soboleski, Strout, Swallow, Theriault, Thorne, Underwood, Walker, White J, Wood.

ABSENT - Andrews, Boyle, Galletta, Lavigne, Pringle, Riseman.

Yes, 89; No, 55; Absent, 6; Vacant, 1; Excused, 0.

89 having voted in the affirmative and 55 voted in the negative, 1 vacancy with 6 being absent, and accordingly **House Amendment "A" (H-942)** to **Committee Amendment "A" (H-842)** was **ADOPTED**.

Committee Amendment "A" (H-842) as Amended by House Amendment "A" (H-942) thereto was **ADOPTED**.

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-842) as Amended by House Amendment "A" (H-942)** thereto and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.
