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Senate Legislative Record

One Hundred and Thirty-First Legislature

State of Maine

Daily Edition

Second Regular Session

Beginning January 3, 2024

Beginning with Page S-1593

ROLL CALL (#704)

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

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

EXCUSED: Senators: LAWRENCE

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **TIPPING** of Penobscot to **ADOPT** Senate Amendment "A" (S-690) to Committee Amendment "A" (S-618), **PREVAILED**.

Committee Amendment "A" (S-618) as Amended by Senate Amendment "A" (S-690) thereto, **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-618) AS AMENDED BY SENATE AMENDMENT "A" (S-690)** thereto.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (4/11/24) matter:

HOUSE REPORTS - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Prohibit Tobacco Sales near Schools"
H.P. 1383 L.D. 2157

Report "A" - Ought to Pass as Amended by Committee Amendment "A" (H-842) (7 members)

Report "B" - Ought Not to Pass (4 members)

Report "C" - Ought to Pass as Amended by Committee Amendment "B" (H-843) (2 members)

Tabled - April 11, 2024 by Senator **BALDACCI** of Penobscot

Pending - motion by same Senator to **ACCEPT** Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-842)** in concurrence

(In House, Report "A", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-842)**, **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-842) AS AMENDED BY HOUSE AMENDMENT "A" (H-942)** thereto.)

(In Senate, April 11, 2024, reports **READ**.)

On motion by Senator **BALDACCI** of Penobscot, Report "A" **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-842)**, in concurrence.

Bill **READ ONCE**.

Committee Amendment "A" (H-842) **READ**.

House Amendment "A" (H-942) to Committee Amendment "A" (H-842) **READ** and **ADOPTED**.

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

Under suspension of the Rules, **READ A SECOND TIME**.

THE PRESIDENT: The Senator may proceed.

Senator **MOORE**: Thank you, Mr. President. I just briefly wanted to kind of summarize this whole bill as presented. Initially, the bill actually was prohibiting tobacco sales 1,000 feet from a school. The committee worked through it, and they changed it to be 500 feet, just as a compromise, and then when we got -- or I got to looking at it, currently, the alcohol sales, the statute for the sale of alcohol, is actually 300 feet from a school. So, my proposal was to actually change that to 300 feet, which now Representative Moonen has done the House Amendment "A" that changed it to 300 feet. What I'm adding with my senate amendment is the ability for the grandfathering of any existing businesses that are already in place that are below the 300 feet with the schools. And I also included in that, because that way it would -- if you have a business, you hate to put anybody out of business, but it also included the fact that if they were to sell that business, the new purchaser would be able to actually get a license to continue to operate that business. A lot of times, that's your equity that you have in your business when you're trying to sell it, and so, I wanted to maintain that. I know that Representative Moonen has stated that there is only one business that is left that falls within that line. I'm concerned that that may not be as accurate as we think, so I want to make sure that we don't put any business out of business, so that's why I presented the senate amendment that keeps it at 300 but does allow for grandfathering. Thank you, Mr. President.

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

Senator **CHIPMAN**: Thank you, Mr. President. I rise in support of the amendment to this bill. This business -- this bill impacts a business in my district, it impacts only one business in the state with the way it's been amended, I'm quite concerned about that. I'd like to just read briefly one of the many emails I received from people in the neighborhood regarding this.
Greetings, Senator Chipman. I wanted to share a quick note raising my concerns with LD 2157. As you may have heard, recent reporting in the Press Herald indicated that the bill, while well intended, would only impact a single store across the state, the Fresh Approach Meat Market in the West End. My family and I live in Munjoy Hill, but my kids are both enrolled at Reiche

School, which is across the street from this store. And for years, we have regularly bought snacks and drinks at Fresh Approach. This bill is poor policymaking in that it no longer solves for a broad issue here in Maine - the potential selling of cigarettes to minors - and that it unfairly punishes a single store that have never once heard a problem with selling cigarettes to minors. My kids don't know a single other kid who have ever smoked a cigarette that they've either bought or stole from Fresh Approach. For the sake of preserving a wonderful Maine small business that has no history of endangering kids and plays a critical role in the community, I'd ask you to vote against the bill. And I would just add that this business has provided a lot of benefits to the community. They've provided food to hungry kids, they've donated to charities, it's a family-owned, small grocery store, it's been there for decades, and I hope that we can pass this amendment to allow them to continue to operate and not be unfairly punished by a bill that would really only impact them. Thank you.

On motion by Senator **MOORE** of Washington, Senate Amendment "A" (S-691) **READ** and **ADOPTED**.

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-842) AS AMENDED BY HOUSE AMENDMENT "A" (S-942) thereto and **SENATE AMENDMENT "A" (S-691)**, in **NON-CONCURRENCE**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (4/11/24) matter:

SENATE REPORTS - from the Committee on **LABOR AND HOUSING** on Bill "An Act to Increase Enforcement and Accountability for Wage and Hour Violations"
S.P. 179 L.D. 372

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-688) (6 members)

Minority - Ought to Pass as Amended by Committee Amendment "B" (S-689) (2 members)

Tabled - April 11, 2024 by Senator **STEWART** of Aroostook

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, April 11, 2024, reports **READ**.)

Senator **TIPPING** of Penobscot moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-688)** Report.

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 Androscoggin, Senator Timberlake.

Senator **TIMBERLAKE**: Thank you, Mr. President, Ladies and Gentlemen of the Senate. So, you can check off one more thing on your bingo card; this bill is not ready for prime time. LD 372 would allow the Maine Department of Labor to collect unpaid wages determined to be due to the employee, none of the stakeholders disagree with this, nobody disagrees with this at all. In fact, the business community ardently agrees that all employees should be paid the wages they are owed one hundred percent of the time. However, that's not all this bill does, Mr. President. It goes too far. LD 372 started with a bang. The public hearing was alarming and has made many businesses in my district nervous about what the Department of Labor's role will be moving forward. LD 372 treats employers making clerical errors the same as those employers that are intentionally abusing toward their employees. Let that sink in for just a moment. In other words, the bill proposes to issue penalties, damages, interest, and more, on small mom-and-pop shops making an honest mistake. The same as an employer that is intentionally and willfully withholding the wages of their employees. We are potentially talking about thousands and tens of thousands of dollars here for the small businesses. What message does this send to the greater business community, Mr. President? The Governor released Maine's Jobs and Recovery Plan, stating the dire need to attract business to Maine. This bill will do nothing to accomplish that and will likely incentivize prospective businesses to look elsewhere. The bill also includes an individual liability provision that would allow the Maine Department of Labor to go after payroll companies, shift supervisors, manager, employees signing checks, or any other person it determines it can collect the wages from. This wide and far-reaching authority would be unprecedented and put people with no control over wages payments to employees on the hook for payments of these wages. Mr. President, it would be one thing if the Maine Department of Labor had data that said employers are willfully and intentionally withholding payments of wages, but they have nothing to support their claim. We shouldn't let hunches or anecdotes dictate major policy decisions. Mr. President, in 2023, the Maine Department of Labor received a total of 6,934 contacts. Of those contacts, 286 of them were complaints. Of those 286 complaints, 247 were resolved. Of that, the Department issued penalties to six companies. Their own data does not support the notion that neglect and abuse is widespread and that it is easier to assume guilt and charge. Companies making good faith errors, the same as the one of the bad employees, it shows why we should do the opposite, actually. Mr. President, the numbers don't lie. From above, the Chief Executive has said very recently that she likes to compromise. I've learned the business community approached the Maine Department of Labor with a very reasonable compromise that was flat-out rejected. It would've made it so all employees who are owed wages receive them, but only the employers willfully withholding wages would be assessed damages and penalties. Isn't this how every other aspect of our legal system works? It's not to discourage business growth by passing this bill. LD 372 needs to be fixed. This bill will inadvertently attack employers making simple mistakes and potentially hold folks with no control of their employer's liability for wages determined to be owed. This bill should not pass as is. Let's punish the bad guys without putting the good ones out of business. Thank you, Mr. President, Ladies and Gentlemen of the Senate.