

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Thirtieth Legislature
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beginning at Page 385

(In Senate, June 16, 2021, on motion by Senator **CARNEY** of Cumberland, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**. Committee Amendment "A" (S-337) **READ**.)

Committee Amendment "A" (S-337) **ADOPTED**.

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

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (6/16/21) matter:

SENATE REPORTS - from the Committee on **VETERANS AND LEGAL AFFAIRS** on Bill "An Act To Regulate Sports Betting" S.P. 437 L.D. 1352

Report "**A**" - **Ought to Pass as Amended by Committee Amendment "A" (S-343)** (7 members)

Report "**B**" - **Ought to Pass as Amended by Committee Amendment "B" (S-344)** (3 members)

Report "**C**" - **Ought to Pass as Amended by Committee Amendment "C" (S-345)** (2 members)

Report "**D**" - **Ought Not to Pass** (1 members)

Tabled - June 16, 2021 by Senator Luchini of Hancock

Pending - Acceptance of Any Report

(In Senate, June 16, 2021, Reports **READ**.)

Senator **LUCHINI** of Hancock moved the Senate **ACCEPT** Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-343)**.

On further motion by same Senator, 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 Senator **LUCHINI** of Hancock.

Senator **LUCHINI:** Thank you, Mr. President. Mr. President, ladies and gentlemen of the Senate, I've moved the Majority, Ought to Pass as Amended, Report out of respect for the Committee's work on this bill and my good friend and colleague from Norridgewock, Senator Farrin. However, I did want to make a few remarks about why I'm strongly opposed to this report. As you can see, there's a few reports on this one. It was a little bit of a mess in Committee.

The Majority and Minority Reports are very similar. They legalize sports wagering here in Maine. They allow the existing brick and mortar facilities to add a sports book. That includes Maine's two casinos, two commercial tracks, five OTBs, and one

for each of the tribes, and they both also legalize on-line wagering and they allow each of those entities that I just listed to have both a physical location as well as an on-line location. But where the two reports differ is this concept of tethering, which I'm sure you've all heard about in the past week. I don't think you can walk down the hallways without getting lobbied on this bill. The reason why I oppose a tethered approach to sports betting is that - for multiple reasons. But under such a model on-line operators would not be allowed to enter Maine's market unless they signed a deal with one of the existing physical locations. So, this deal's often financial in nature. The mobile operator must pay what's known as a market access fee to the gaming industry for the privilege of entering our state and this is a policy that's being driven by the casino industry nationwide. For me, it's the wrong approach for a number of reasons. This works great for the gaming industry but it's bad for our constituents who are going to be out there placing bets. So, the first reason why I oppose this tethering is anti-competitive and anti-free market policy. Under a tethered model, casinos and the gaming industry are the gatekeepers of which on-line providers can enter Maine's market. No technology will be able to operate here in the state of Maine without first signing a deal with a member of Maine's gaming industry, the ten or so people who are given the facility under this legislation. So, that market access fee involves, as I said, paying a hefty fee or revenue share to the entity that they're tethered to, forcing those technology companies to pay their competitors for the privilege of operating here in the state of Maine. So instead of having our Gambling Control Board authorize and license companies, like we would normally do, we let the casino and gaming industry choose which competitors can enter the state and also have those competitors pay them directly. So, the end result is less consumer choice for our constituents and higher operating costs for the on-line platforms, and that cost isn't going to get absorbed by the on-line platforms, it's going to get passed onto the tens of potentially hundreds of thousands of Mainers who want to place bets on their on-line apps and that's going to come in the form of worse pay-outs and worse odds. Obviously, such an anti-business structure is not present in any industry that I'm aware of. We don't require Airbnbs to tether to our existing hotels and inns. We don't require Uber to be tethered to our taxi services and we certainly don't require Amazon to be tethered to our retail businesses. The tethering arrangements and the fees charges to on-line providers ultimately amounts to a subsidy for the current gaming industry players and is paid for by our constituents.

Amazingly, as we worked through these bills, I've heard from dozens of other businesses in Maine who would love to offer sports betting, restaurants and other businesses owners, and they don't care at all about tethering. They just want the opportunity to do this but this bill picks and chooses only a very limited amount of people and it also tethers it to them. So, as a final point of why I oppose this measure, as evidenced across the country, tethering is a tool that's designed by the casino industry to drive people into the casino. Tethering arrangements can allow casinos to access the on-line player databases and influence its content and, as a result, casinos can use that data and use the on-line app to offer credits and payments so that people will go to the casino and play and, as we know, once you get into a casino it's hard to leave, there's higher addictive types of gaming. The Bangor casino, for instance, who strongly supports the tethering approach, spent over \$4 million in 2019 on promotions, trying to get people to walk into the casino and I only

expect that number to grow as tethering arrangements continue. Sports betting is a low margin product for casinos but important to the gaming industry. The betters are young, they are the people who almost never set foot in a casino but they like to bet on-line, and tethering gives them a direct connection to those people, which is their future demographic. I do want to thank the Oxford Casino for being open to discussions and for supporting an untethered approach. I think that's a pretty gutsy play from the casino industry and I support it and appreciate it. So, ultimately, I'll just close by saying I think in designing a sports betting policy we have a choice of what's going to be beneficial to the ten or so companies that may be able to offer sports or we have the choice of doing what's best for the tens of potentially hundreds of thousands of Mainers who are going to be placing bets on it every day. So, for me, that's an easy decision. That's why I'm opposed to this report and support a different measure. Thank you, Mr. President.

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

Senator **BALDACC**: Thank you, Mr. President. I'm rising in support of the Majority Report for a number of very important reasons, both to the City of Bangor and to the State of Maine. First of all, since the Supreme Court overturned the prohibition on sports betting, and allowed individual states to regulate sports, 30 states have legalized sports betting and each and every one of those cases where there is a preexisting bricks and mortar business has chosen tethering. We just - just to remind my good friend, the Senator from Hancock, we just passed a bill within the last ten days to prefer Maine businesses, Maine contractors, to not only buy American but to buy Maine. These are Maine businesses. The whole reason you have tethering is to support people who are in this business. Amazon and others, they are not in a highly regulated gambling business that requires a government license. This is a government license and to say that we're going to allow to be just the wild west and maybe the restaurant next door can have one of these licenses is not a realistic approach. The out-of-state companies are going to, obviously, try to take the field. Bangor has a unique position, and I know I represent District 9 and you focus on other areas, but I just want to share with you my District's unique position. Fifteen years ago, the State of Maine voters, statewide, approved referendums to allow slot machines and then gambling and then casino gambling. We, the City of Bangor, the contracts provide that the revenue received from that casino pays the debt service on the Cross Insurance Center. The Cross Insurance Center is the largest, it's the most highest quality venue, indoor venue, north of Boston. Brand new, University of Maine, concerts. We just had 100,000 people vaccinated at the Cross Insurance Center in Bangor. That was a big public health achievement. That draws hundreds of thousands of people to the Greater Bangor region. The Greater Bangor region comprises of about 155,000 people. The City of Bangor, itself, generates over \$1.2 billion in taxable retail sales. That's more than \$70 million to the State coffers. Portland is only a couple of hundred, \$1.4 billion. So, there's a significant business community and region that's effected. There are 400 jobs at Hollywood Casino, when there isn't a pandemic, and, as I said, it pays the debt service on the Cross Insurance Center. The Cross Center was paid for with zero federal dollars, zero State dollars. It was a \$60 million local bond issue that former-Senator Gratwick and myself and three

other counselors actually signed the bond order in 2012. We still have 20 years left to go but the fact of the matter is it's a huge economic success for the Bangor region and was paid for with zero money from any other source and it also does not go on the property tax. So, I know that Bangor is not your District but the Greater Bangor region affects the state economy as well and is very important.

But I would offer you two other reasons beyond the merely local as to why tethering is important. The first would be accountability. Tying the mobile license to physical locations allows regulators to more closely scrutinize the activities of sports betters and sports betting licensees. The casinos are compliance driven businesses and are already heavily regulated by the Gambling Control Board and the Department of Public Safety. There will be strict protocols in place for these facilities to ensure a safe and responsible betting environment for the citizens of Maine. If, however, there are suspicion of something going wrong, an illegal wager for example or an underage better, the Department can show up at Bangor or Oxford or walk through the door and speak to the managers there. If an untethered mobile license holder is rumored to be not paying out wagers, who do you call and where do you go for answers? There's not going to be any accountability. There's going to be limited ways to police the underage gambling and there's going to be very limited accountability. Despite whatever representations these out-of-state companies may have made to the Veterans and Legal Affairs Committee, the fact of the matter is they're not going to be accountable to anybody in this state. Second, tethering a mobile license to a retail location, such as a casino or an OTB, drives revenue at those facilities, which benefits a host of other parties, including the State of Maine. Although it is true a vast majority of the sports betting market is mobile, as much as 80%, for the minority of people who like to bet in person at a retail sports book they drive up food, beverage sales, hotel stays, and even increase the handle of slots play and table games. The cascade from these plays goes directly to veterans, harness racing, scholarships at the University of Maine and the Community College System, and the Fund for a Healthy Maine, among others. In the Chief Executive's veto message last year, and I would just remind you that the untethered bill which some on the Veterans and Legal Affairs Committee support was the one that was vetoed last year, so for us to do the exact same thing we did before that didn't work, to do that again does not make sense. But that's just one of many reasons why I ask you to vote for the Majority Report. But in the Chief Executive's veto message of a sports betting bill from last year she said in part that Maine needs to examine the experience of other states that have legalized sports betting so that we might gain the benefit of that experience. Since that time, a number of other states have moved forward on sports betting and where they have had a preexisting bricks and mortar, for instance New Hampshire had no preexisting bricks and mortar, but where they have had one they have all required tethered mobile sports betting licenses. Whatever your feelings are towards gaming, I hope that we can all agree that if we're going to open up the state to accept wages on sports we need to do it in the most responsible way possible and the one that protects Maine people and Maine businesses as much as possible. Tethering in the Majority Report is the path that nearly every other state has taken for the reasons I put forward and I appreciate your consideration to vote for the Majority Report.

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

Senator **CHIPMAN:** Thank you, Mr. President. I also rise in support of the Majority Report. You know, the Committee work that we do, we often look to see what other states are doing. We don't have this in Maine right now and so, as mentioned by my colleague from Penobscot, what other states are doing is tethering. We've got, I believe, twenty-seven states now that have on-line gaming that's been legalized so far and well over twenty of them have tethering, including New Jersey, West Virginia, Rhode Island, Pennsylvania, Oregon, Nevada, Michigan, Indiana, Iowa, Arkansas, Delaware, Louisiana, Mississippi, Montana, New Mexico, North Carolina, South Dakota, Washington, and New York. There are just a few, I believe two or three, that do not have tethering but have on-line gaming but do not have tethering, and the reason is they don't have bricks and mortar gaming in their state. Tennessee doesn't have any casinos. They have on-line gaming but there's no casinos or bricks and mortar gaming in that state to tether anything to, but if they did they would probably have tethering as well. That's what other states are doing. So that weighs heavily on me.

The second factor that I would like to mention is stakeholders. What do the stakeholders want? As we heard, the Bangor Casino wants this. We also know that commercial harness racing tracks want this, OTBs want this, the fairs want this, the tribes who benefit from this. All of the stakeholders that are involved in gaming right now in the state have basically come together in support of the Majority Report because it benefits bricks and mortar businesses in the state, it benefits businesses on Main Street, it benefits businesses like Winners Sports Pub in my hometown of Brunswick, the owner of which is sitting here behind me. They are hanging by a thread. They were not doing that well economically before COVID, now they're literally struggling to stay in business, and this would help them stay in business. So, I think we should pass the Majority Report, help our brick and mortar businesses here in the state. It's what the stakeholders want. It's what the other states are doing. So, I hope we can come together around this. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Luchini.

Senator **LUCHINI:** Thank you, Mr. President. Mr. President, ladies and gentlemen of the Senate, apologies for rising a second time. I just wanted to respond to a couple of things that we've heard. First, I just want to acknowledge that this is not the same exact measure that was run last session. This is something that I actually worked on with the Second Floor, just so people are aware of that. Secondly, we've heard a lot about Maine companies. I think we all know that the Bangor Casino and the Oxford Casino aren't Maine companies. They have corporate ownership from out-of-state, so that money leaves the state. It isn't beneficial to Maine companies. There are a few that are, and I don't diminish that, but the two casinos are owned by out-of-state corporations, one of the two commercial tracks is owned by Bangor Casino as well, a couple of the OTBs are owned by an out-of-state resident. We heard about the casinos have often talked about this, the Bangor Casino, I do, again, appreciate Oxford's support, but the Bangor Casino has talked about the potential for losing jobs or losing revenue. There's absolutely no evidence to suggest that the legalization of sports betting will hurt

casinos. In fact, even under an untethered bill, the casino can have a physical location as well as a mobile or on-line license and I'll just quote from the Penn National Gaming representative who came and testified in our committee. He said, 'As for the notion that sports book will cannibalize our existing casino and traditional gaming revenues, the reality is quite the opposite.' So that's directly from the Bangor Casino. So there's no reason to believe that legalizing sports and letting casinos have sports betting will hurt their facilities. In terms of accountability, we would regulate these entities the same way we regulate advance deposit wagering which happens in Maine on-line, the same way we do daily Fantasy Sports. That's by extensive background checks, accountability standards. If you don't have a license anywhere in the country you're not going to get it here. The crimes are exactly the same, you get punished, and these on-line providers know that if you lose a license anywhere you're not going to get licensed pretty much anywhere in the country. So, for those reasons, again, you know, I oppose this motion and apologies for rising a second time but I urge you to oppose this motion. Thank you, Mr. President.

THE PRESIDENT: The pending question before the Senate is Acceptance of Report "A", Ought to Pass as Amended by Committee Amendment "A" (S-343). Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#416)

YEAS: Senators: BAILEY, BALDACCI, BENNETT, BLACK, BRENNER, CHIPMAN, CURRY, CYRWAY, DAUGHTRY, DAVIS, DIAMOND, DILL, FARRIN, KEIM, LAWRENCE, MAXMIN, MIRAMANT, MOORE, ROSEN, STEWART, TIMBERLAKE, WOODSOME, PRESIDENT JACKSON

NAYS: Senators: BREEN, CARNEY, CLAXTON, DESCHAMBAULT, GUERIN, HICKMAN, LIBBY, LUCHINI, POULIOT, RAFFERTY, SANBORN, VITELLI

23 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **LUCHINI** of Hancock to **ACCEPT** Report "**A**", **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-343)**, **PREVAILED**.

Bill READ ONCE.

Committee Amendment "A" (S-343) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-343)**.

Ordered sent down forthwith for concurrence.