

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Thirteenth Legislature
OF THE
State Of Maine

VOLUME III

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August 21, 1987
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STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Friday
March 18, 1988

Senate called to Order by the President.

Prayer by Reverend Robert Canfield of the Free Methodist Church in Gardiner.

REVEREND CANFIELD: Let us pray. Dear Father we do thank You on this occasion to realize that You never tire of our coming to You. Help us Father in like manner that we will never tire in coming to Yourself and You coming to us. Help us never in any of our lives journey to take anything for granted, to take the responsibilities of life in a way that would make them so common place that we feel like we can operate without You. We ask for wisdom, guidance and direction as this Body meets and fulfill their responsibility at this hour in Your name we pray. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE
House Papers

Resolve, Authorizing the Sale of Certain Public Lands

H.P. 1860 L.D. 2546

Comes from the House referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.

Which was referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED, in concurrence.

COMMITTEE REPORTS

House

Ought Not to Pass

The following Ought Not to Pass Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Amend the Maine Low-Level Radioactive Waste Authority Liability Provisions"

H.P. 1495 L.D. 2045

Leave to Withdraw

The following Leave to Withdraw Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Define Chemical Preservative and to Provide Alternative Labeling Requirements"

H.P. 1672 L.D. 2290

Senate

Ought Not to Pass

The following Ought Not to Pass Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Establish Minimum Mandatory Energy Standards for Residential Buildings"

S.P. 829 L.D. 2155

Bill "An Act to Restore to Maine Counties a Portion of the Real Estate Transfer Tax"

S.P. 904 L.D. 2350

Bill "An Act to Amend the Law for Rest Room Requirements for Bed and Breakfast Establishments"

S.P. 906 L.D. 2361

Ought to Pass in New Draft
Senator BERUBE for the Committee on AGING, RETIREMENT AND VETERANS on Bill "An Act to Correct Inequities in the Maine State Retirement System"

S.P. 718 L.D. 1947

Reported that the same Ought to Pass in New Draft under same title.

S.P. 960 L.D. 2548

Which Report was READ and ACCEPTED.

Under suspension of the Rules, the Bill in NEW DRAFT READ TWICE and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Divided Report

The Majority of the Committee on LEGAL AFFAIRS on Bill "An Act to Change the Definition of Wine Coolers" (Emergency)

S.P. 803 L.D. 2104

Reported that the same Ought to Pass in New Draft under same title (Emergency).

S.P. 959 L.D. 2544

Signed:

Senator:

DILLENBACK of Cumberland

Representatives:

PERRY of Mexico

MURPHY of Berwick

PAUL of Sanford

STEVENS of Sabattus

HICHBORN of LaGrange

TUPPER of Orrington

MARTIN of Van Buren

HARPER of Lincoln

JALBERT of Lisbon

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

Signed:

Senators:

KANY of Kennebec

ESTES of York

Representative:

PRIEST of Brunswick

Which Reports were READ.

Senator KANY of Kennebec moved to ACCEPT the Minority OUGHT NOT TO PASS Report.

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

Senator DILLENBACK: Thank you Mr. President, ladies and gentlemen of the Senate. I understand this isn't the greatest Bill that ever came down the road, but I can tell you that it is very important to the retail store owners and particularly the small store owners. On April 1, you are going to have a bill that puts a return on the bottles that are involved in this. The problem that this Bill tries to answer and does answer is what is a wine cooler. There are many wine bottles which appear to be wine coolers, but are not wine coolers. There are fruit wines that look like wine coolers and aren't and they come in large bottles, they come in quart size bottles, they come in sixteen ounce size bottles. The bottles we are talking about are the small wine coolers. The stores don't know which is which so this is a definition that tells you what a wine cooler is and the definition if you look at the Bill is very simple. A wine cooler has less than eight percent alcohol and it has in it water and various fruit juices and that is all it is is a description of what a wine cooler is. I hope you will vote to pass this. The Majority of the Committee certainly is in favor of this. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Thank you Mr. President, men and women of the Senate. I hope you go along with the Ought Not to Pass motion and the reason is that a bill was brought to the Legal Affairs Committee to change the definition of wine cooler. Last year we debated at length if we should have a returnable wine cooler bill and if so, what the definition of wine cooler would be. We did come up with a new law and we did have a compromise definition of what a wine cooler was. It appears that some would like to change that definition of wine cooler because they found that their products came under the definition and they did not want them to. From the testimony in the Committee and believe me we were faced with a variety of bottles literally brought to the Committee room to examine the contents listed on the labels. It appeared as if Riunite and another imported wine cooler under the present definition were those seeking to come out from the current definition of wine cooler. I would like you to know there is not one hundred percent agreement among the distributors. There is one lobbyist who has been very actively working on this Bill and not all of his people are unanimous in favor of this change. The Committee was very open minded, we said if there is a definition of wine cooler that we can all agree upon we would be happy to change the law. There did not seem to be a new definition that was preferable to the one we have. We looked at one that the State of Michigan will have beginning in 1989, thinking that perhaps we could help out with distribution by going towards a national definition as wine cooler returnable bottle bills are enacted. We offered that as a possible solution to this problem and that seemed to be unanimously turned down by the distributors because it would bring even more of these various wine coolers in under the Returnable Bottle Bill. Under all of those circumstances, I urge you to defeat the Bill and go along with the pending motion so that we can keep our current wine cooler definition in the law and we can go on about our other business. Thank you.

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

Senator BALDACCI: Thank you Mr. President, men and women of the Senate. This is a Bill that I sponsored that was intended to go to the Business Legislation Committee, but rather than have a reference fight, we decided that maybe it should go to Legal Affairs even though the Business Legislation Committee was the Committee that dealt with the wine cooler legislation two years ago. It was the Business Legislation Committee that worked on the definition of wine cooler and it was this Senate that amended what a wine cooler was. I would like to apologize to the Senate because what we were trying to do to the definition at that time if you remember the amendment and trying to deal with that issue all together, was it was in the heat of the battle and it was not a good definition of a wine cooler and it included fruit juices and other things that were not intended to be under the wine cooler legislation. I don't have to go into the distribution network of why you deal with some products and you don't deal with others. It has been discussed about why the Bottle Bill was established the way that it is. This definition was going to clarify what a wine cooler was and not include other fruit juices that are handled differently from a different distribution network and I think it is admirable of the Senator from Kennebec to point these concerns out, but the fact of the matter is that there is a problem out

there and unless we correct it, we are going to put a lot of those little store owners in a lot of difficulty because the number of fruit juices and the different sizes that are in their facility and I think it is a disservice to them. It wasn't my intention to include that when we did have the wine cooler legislation.

I hope you will support the Majority Report of the Committee. Thank you.

Senator DILLENBACK of Cumberland requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Thank you Mr. President, ladies and gentlemen of the Senate. I was Senate Chair of the Business Legislation Committee at that particular time when we did this Bill and I am unsure of the message that I was getting from the good Senator from Penobscot, Senator Baldacci about fruit juices. To my knowledge fruit juices do not contain alcohol and wine coolers do contain alcohol. They may in fact contain fruit juices also, so I am unclear of what the message was. The message that we wanted to send on wine coolers two years ago was, when it contains alcohol then there should be a returnable bottle charge.

I would suggest that perhaps we would tend to go along with the other good Senator from Kennebec, Senator Kany's proposal that we Ought Not to Pass this piece of legislation.

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

Senator BALDACCI: Thank you Mr. President, men and women of the Senate. Two years ago, I know my memory is not all that good, but I was Chairman of the Business Legislation Committee and I remember sitting there with the good Senator from Cumberland, Senator Brannigan, and the good Senator from Androscoggin, Senator Whitmore, when we had this legislation which was cosponsored by the good Senator from Aroostook, Senator Ludwig, and others in the Legislature. When we did work on this legislation it was very important to include only wine coolers. Riunite and fruit wines and those types of things were not intended to be part of this legislation and we had worked on having a definition to make sure it was very clear. We should not get bogged down in this. This is an emergency piece of legislation to correct an inequity that is out there and I would hope that you would support this measure. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator KANY of Kennebec to ACCEPT the Minority OUGHT NOT TO PASS Report.

A Division has been requested.

Will all those Senators in favor of the motion of Senator KANY of Kennebec, to ACCEPT the Minority OUGHT NOT TO PASS Report, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

Senator KANY of Kennebec requested a Roll Call.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Thank you Mr. President and Members of the Senate. I just wanted to congratulate the good former President of the Senate for his excellent job in counting his votes.

Subsequently, Senator KANY of Kennebec requested and received Leave of the Senate to withdraw her motion for a Roll Call.

A Division has been requested.

10 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion

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of Senator KANY of Kennebec, to ACCEPT the Minority OUGHT NOT TO PASS Report, FAILED.

The Majority OUGHT TO PASS IN NEW DRAFT Report was ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

The Committee on Bills in the Second Reading reported the following:

House

Bill "An Act to Appropriate Funds to Conduct a Marine Pollution Monitoring Program"

H.P. 1728 L.D. 2371

Bill "An Act to Develop a Plan to Minimize and Dispose of Household Hazardous Waste" (Emergency)

H.P. 1850 L.D. 2532

Bill "An Act to Ensure the Complete Payment of Health Insurance Premiums for Teachers over a Certain Age"

H.P. 1852 L.D. 2535

Bill "An Act to Provide for Effective and Timely Public Notice of Hearings Conducted by State Boards and Agencies" (Emergency)

H.P. 1854 L.D. 2537

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

House As Amended

Bill "An Act to Implement Uniform Federal Lien Registration" (Emergency)

H.P. 1524 L.D. 2077
(C "A" H-482)

Bill "An Act to Promote Harmony between Agriculture and Adjacent Development and to Protect the Public Health, Safety and General Welfare" (Emergency)

H.P. 1842 L.D. 2522
(H "A" H-488)

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

Bill "An Act to Clarify the Authority of Harbor Masters" (Emergency)

H.P. 1853 L.D. 2536
(H "A" H-489)

Which was READ A SECOND TIME.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Clarify the Status of Police Officers Assigned to the Bureau of Intergovernmental Drug Enforcement and to Add a District Attorney to the Bureau's Policy Board" (Emergency)

S.P. 832 L.D. 2166
(C "A" S-340)

Tabled - March 17, 1988, by Senator CLARK of Cumberland.

Pending - Motion of Senator TUTTLE of York to ADOPT SENATE AMENDMENT "A" (S-343)

(In Senate, March 17, 1988, Senate Amendment "A" (S-343) READ.)

On motion by Senator TUTTLE of York, Senate Amendment "A" ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended. Sent down for concurrence

Out of order and under suspension of the Rules, the Senate considered the following:

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator DOW for the Committee on TAXATION on Bill "An Act to Capture Sales Tax Revenues on Manufactured Housing Purchased Outside the State"

S.P. 888 L.D. 2300

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-344).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-344) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Out of order and under suspension of the Rules, the Senate considered the following:

SENATE PAPERS

Bill "An Act to Prevent Arbitrary Dismissal of Employees Based on Results of Substance Abuse Testing"

S.P. 961

Presented by Senator MATTHEWS of Kennebec Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 26 Committee on LABOR suggested.

Senate at Ease

Senate called to order by the President.

On motion by Senator DUTREMBLE of York, Tabled Unassigned, pending REFERENCE.

Senator BALDACCI of Penobscot was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator BRANNIGAN of Cumberland, ADJOURNED until Monday, March 21, 1988, at 9:00 in the morning.