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TTY: MAINE RELAY 711

John Alden Spear

12 Rockledge Road
South Thomaston, ME 04858
Residence: (207) 596-7720
Cell Phone: (207) 596-3545
John.Spear@legislature.maine.gov

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**Testimony of Representative John Spear
Regarding LD 351, An Act to Allow Municipalities to Prohibit Weapons at Public
Proceedings and Polling Places
Before the Committee on Criminal Justice and Public Safety**

Good morning Chairman Rosen and Chairwoman Warren and members of the Joint Standing Committee on Criminal Justice and Public Safety.

I'm John Spear and I represent District 92, which includes Matinicus, Cushing, Thomaston, St. George and my home town of South Thomaston.

Thank you for allowing me the opportunity to introduce and speak to my bill, LD 351, An Act to Allow Municipalities to Prohibit Weapons at Public Proceedings and Polling Places.

I'd like to start by saying that this bill was filed on my own initiative. No other person or organization asked or encouraged me to file it.

As you may be aware, Title 25, Section 2011, prohibits the enactment by any political subdivision of the State, including municipalities and counties, any order, ordinance, rule or regulation, regarding the possession and bearing of firearms.

This bill would simply remove this infringement that is currently placed on Maine municipalities. It would allow municipalities, by votes of their town meetings or councils, to exercise home rule authority and prohibit weapons, including firearms, at municipal proceedings and polling places. It by no means mandates that they do so.

Personally I would prefer a statewide prohibition of weapons at these two venues, but I chose to make this a local option bill. I did this in recognition of the divergent nature of Maine's municipalities and the differing community standards that exist throughout the State.

It is my sincere hope, however, that since I drafted this bill to enable local option decisions, out of respect for these varying community standards, that that flexibility won't be turned into an argument against the bill, with assertions that it will lead to a confusing patch work of laws. And

District 92 Cushing, South Thomaston, St. George, Thomaston and Matinicus Isle Plantation, plus the unorganized territories of Criehaven and Muscle Ridge Islands Townships

if you do hear those criticisms, please remember that only two options exist, yes or no, so it certainly shouldn't lead to a great deal of confusion.

Since I filed this bill I have learned that a very similar bill, sponsored by Senator Katz, was considered in the 125th legislature where it passed in the Senate but not in the House. During that hearing process an amendment was added to that bill requiring municipalities to publicly post any prohibitions that it might enact. I'm certainly open to such an amendment.

As you are all aware there are currently many places where weapons are prohibited by law. This includes schools, social security offices, post offices, county court houses, and of course this building and the entire campus it sits upon.

Also, there are places where the owner reserves the right to prohibit weapons including, for example, establishments that serve alcohol, places of employment, hospitals (except for municipal hospitals), private homes, etc.

Additionally, notwithstanding Title 25, 2011, Maine law grants to colleges and universities, including the University of Maine System, the Maine Community College System and Maine Maritime Academy the authority to regulate the possession of firearms on their campuses.

As I noted this bill grants municipalities the option to prohibit weapons at polling places. I strongly believe that weapons have no place at a venue where people are exercising their most fundamental democratic right. To my mind, the polling place is a venue where we all have a right to peaceably cast ballots that allow us to resolve our political differences in a manner free from even a hint of intimidation or coercion.

Maine has a long history of insuring that voters may approach and enter polling places in complete peace with freedom from any form of harassment or even distraction. No political signs are allowed within 250 feet of a polling place. Within this buffer zone no candidate for elective office may wear a name tag or even state to a potential voter the title of the office s/he seeks. Individuals presenting petitions are prohibited from soliciting signatures until after a voter has cast his or her ballot. The election warden is charged with enforcing a strict order of decorum and ballots are marked and cast in private. Again, the entire process is designed to maximize a voter's confidence that s/he may cast a ballot free from outside influence, never mind intimidation or coercion.

To allow a person to enter a polling place with a weapon is contrary to what all these other prohibitions are designed to achieve and consequently should not be allowed if the community feels that such a prohibition is prudent or necessary.

I should point out that prohibiting weapons at polling places is by no means an uncommon practice throughout the United States. As near as I can ascertain, currently 11 states have some sort of explicit prohibition. Many more States do so indirectly as a result of laws that prohibit weapons at county courthouses and municipal buildings where polling is conducted.

An example of an explicit prohibition would be the following: *“A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, illegal knife, club, or prohibited weapon on the premises of a polling place on the day of an election or while early voting is in progress”*. That is an excerpt from the State of Texas penal code.

The second venue that this bill addresses is municipal proceedings, meetings of city councils, select boards, local planning boards, etc.

As currently drafted the bill would not allow municipalities to prohibit weapons from municipal buildings, just municipal proceedings. I would propose amending my bill to have it read municipal buildings.

I’m proposing this for a few different reasons. First, I think it could be a bit confusing as to what is a municipal proceeding and when one was occurring. The more important reason, however, is that since I have filed this bill I have heard from several people who have urged me to include municipal buildings for differing reasons.

One comment was that by amending it to municipal buildings that would enable municipal libraries to enjoy the same protections as private libraries. And, as I am certainly aware, sometimes the lines between what is and what is not a municipal library can be blurred. Interestingly, this is somewhat similar to the current issue that LD 443 addresses, dealing with municipally funded hospitals in the state.

Additionally, while conducting research for this testimony I learned that under current law, rules prohibiting firearms in municipal police stations are not even allowed. And at stations where such rules have been adopted, as I am told is the case in many places, they are in fact rendered void by Title 25, Section 2011, 1. As a matter of fact, it is my understanding that an argument could be made that prohibitions against weapons at County jails might be in violation of Section 2011.

Furthermore, it has also come to my attention that some municipal personal policies prohibit municipal employees from bringing weapons into their places of employment. These policies also could be a violation of Section 2011

Finally, as a Town Manager and Select board member of 11 years I always believed that one of my primary obligations was to ensure the health and safety of municipal employees in the workplace. I often felt that by being barred from enacting prohibitions against firearms at municipal buildings cities and towns are hampered in efforts to protect their employees should they find such a policy prudent. By enacting this bill in the amended form that I propose these issues could be easily rectified.

I firmly believe weapons have no place in our municipal facilities for reasons similar to those I outlined above regarding polling places. These facilities are the people’s facilities. Many of us, including myself, are uneasy in the presence of weapons. I can avoid most venues where weapons may be present. But if I wish to attend my town meeting or a city council or select

board meeting, alternative sites obviously don't exist. It is my contention that no one should be faced with this choice and discouraged from participating in the public process.

Many states prohibit weapons in government buildings, including municipal buildings. As an example, an excerpt from the State of Georgia reads as follows: *"A person shall be guilty of carrying a weapon or long gun in an unauthorized location and punished as for a misdemeanor when he or she carries a weapon or long gun while in a government building."*

I have never understood the rationale as to why Maine law prohibits weapons in this Statehouse, on this entire campus, and at county courthouses, but not at municipal buildings.

We, as legislators, assemble here to conduct the people's business. We do so with the comforting knowledge that weapons are not allowed here. But to our nearly countless partners at the municipal level, who often are true volunteers, who donate untold hours, we extend no such protections, and, inconceivably to me, we actually prohibit our partners from enacting for themselves the protections we have enacted for ourselves. This double standard strikes me as the height of hypocrisy.

In closing, for those who would argue against this bill due to the fact that incidents or potential incidents are rare, my response is twofold.

First, I would say that in my many years in municipal government, I certainly have witnessed many individuals who were so angry and visibly agitated that if a weapon had been readily available an incident that all would quickly regret could have occurred. I guess what I mean by that is that if I know my porch steps are rotten I don't wait until a visitor falls through them before I replace them.

But secondly, and more importantly, this is not about incidents, it's about values, it is about setting a standard regarding who we are as a people and sending a message concerning how we govern ourselves in a manner that is civil and orderly with no possible threat of intimidation or coercion.

This concludes my testimony and I would be happy to answer any questions.