

**TESTIMONY OF JEFFREY NEIL YOUNG
IN OPPOSITION TO LD 2195
AN ACT TO PROTECT BUSINESSES FROM FRAUDULENT
OR PREDATORY FINANCIAL SETTLEMENTS BY ALLOWING
THOSE BUSINESSES OPPORTUNITIES TO REMOVE
ARCHITECTURAL BARRIERS IN NONCOMPLIANCE WITH THE
MAINE HUMAN RIGHTS ACT**

My name is Jeffrey Neil Young. I am an attorney with Solidarity Law and practice in Cumberland. I have been practicing labor and employment law for over 40 years, the last 35 years here in Maine. My practice includes the frequent representation of individuals with disabilities. I am also the parent of a son who is now 32 years old who has moderate to severe autism and lives in a group home under a Section 21 waiver.

In my capacity as vice-president of the Maine Employment Lawyers Association (MELA), I have worked on a number of bills with the sponsors of this bill promoting the civil rights of Maine people. Because of my prior experience working with them, I am confident that the sponsors are well-intentioned. Nevertheless, I cannot support the enactment of LD 2195.

I believe that LD 2195 would serve to discriminate against people with disabilities. As I read the proposed legislation, in order to bring a complaint, the charging party must actually have tried to access the property. If the charging party has done so, the bill then requires a detailed and time-consuming procedure that the individual would have to go through before filing a charge of discrimination with the Maine Human Rights Commission. The upshot of the legislation would be to discourage the filing of such charges, the dismissal of many complaints for failure to comply with the detailed filing procedures, and where charges are in fact properly filed undue delay in remedying barriers to access to hotels, restaurants, and other businesses.

Perhaps most pernicious is the bill's requirement that individuals bringing such charges actually have tried to access the establishment. This requirement apparently is an attempt to suppress charges by individuals who have no real intent of accessing the property. In doing so, the bill sweeps far too broadly. Suppose for example, that a friend tells an individual with disabilities that a hotel or restaurant is not accessible to individuals with disabilities. Perhaps that friend works at the establishment and does not want to file a charge against their employer but wants to assure that individuals with disabilities can enjoy the employer's hospitality.

Does the disabled individual actually have to go to the place of business to verify that it is not accessible? The legislation would seem to require this.

The title of the bill “To Protect Businesses From Fraudulent Or Predatory Financial Settlements” suggests that the bill is directed at individuals who have made a practice of filing accommodation charges who have not set foot on the property. While this may seem harsh, as a matter of practice, businesses should be required to know and comply with the law. Indeed, the Supreme Court long ago recognized the ability of testers to bring claims for race discrimination in housing even though the testers had no intent to actually rent or buy the property. *Havens Realty Corp. v. Coleman*.

Why are accommodations for individuals with disabilities to be singled out and different from employment laws prohibiting employers from hiring minors, paying minimum wages, etc.? Or from Fair Housing laws barring race discrimination? There is no principled difference. Accordingly, I ask that members of the Committee opposed LD 2195.

Thank you for your consideration.