



AMERICAN CIVIL LIBERTIES UNION

Maine

PO Box 7860  
Portland, ME 04112  
(207) 774-5444  
[www.aclumaine.org](http://www.aclumaine.org)

TESTIMONY OF MICHAEL KEBEDE, Esq.

**LD 1901 – Ought to Pass**

**An Act To Amend the Laws Prohibiting the Use of Handheld Phones and  
Devices While Driving**

Joint Standing Committee on Transportation

January 21, 2020

Senator Diamond, Representative McLean and members of the Joint Standing Committee on Transportation, good afternoon. My name is Michael Kebede, and I am policy counsel for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions through advocacy, education, and litigation. On behalf of our members, we support LD 1901, which would make Maine's system for punishing traffic violations fairer.

Under current law, courts can issue fines to people caught driving with a handheld device \$50 or more for the first offense, and \$250 or more for subsequent offenses. The bill before you would allow courts to assess fines of only \$50 for a first offense or \$250 for subsequent offenses. This change is welcome: fines higher than \$50 or \$250 for driving violations threaten the dignity of low-income Mainers, who often have to choose between paying mandatory fines and necessary living expenses.

However, we urge the committee to go farther.

Last session, we testified about our concerns with mandatory minimum court fines that are used to punish people for breaking the law. Although the fines in LD 1901 are not mandatory, they present the same concerns. Like mandatory fines, a law that requires a flat amount for a fee is problematic for at least two reasons.



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First, they constrain courts from applying sanctions that are appropriate to each individual. Second, they further entrench in our legal system a punishment regime that disproportionately affects rich and poor.

The current minimum fine of \$250 for a second offense may be an insignificant amount to people with means. However, that same \$250 fine may impose a significant burden on a person of more modest means, for whom finding money for gas or groceries is a challenge. The wealthy driver may dash off a check without much thought, but the poor driver could get stuck in the legal system for years, paying off the fine in small monthly installments, facing arrest and imprisonment for missed payments. Because single mothers and people of color are more likely to be poor, this policy will exacerbate gender and racial disparities in the justice system.

The ACLU recommends that the Committee amend this bill to allow fines of “up to” \$50 for the first offense and “up to” \$250 for subsequent offenses. Additionally, to achieve a truly just system, the Committee might consider a system that pegs fines to income. Finland has had such a system for nearly a century and might provide a good template.<sup>1</sup>

With those amendments, we urge the Committee to vote that the legislature *ought to pass* LD 1901. Thank you for your time and attention. I am happy to try to answer questions.

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<sup>1</sup> Alec Schierenbeck, *The Constitutionality of Income-Based Fines*, 85 U Chicago L Rev 8: 1859 (2018), available at [https://lawreview.uchicago.edu/sites/lawreview.uchicago.edu/files/01%20Schierenbeck\\_ART\\_Post-SA%20%28JJ%29.pdf](https://lawreview.uchicago.edu/sites/lawreview.uchicago.edu/files/01%20Schierenbeck_ART_Post-SA%20%28JJ%29.pdf)