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**UGHT TO PASS
TESTIMONY IN SUPPORT OF THE AMENDED L.D. 2086 (Bump Stock/LCM Ban)**

Good morning, Chair Carney, Chair Moonen and Members of the Judiciary Committee:

I am Peggy McGehee, a resident of the Town of Falmouth, a member of a family of gun owners, including a Marine captain son and a Maine hunter grandson, and am an adjunct professor at the Maine Law School. I speak today in my personal capacity, in support of the amended L.D. 2086, to ban bump stocks/LCMs.

This is a bill that everyone can get behind. In fact, in 2017, the NRA CEO at that time, Wayne LaPierre, stated that “[t]he NRA believes that devices designed to allow semiautomatic rifles to function like fully automatic rifles should be subject to additional regulations.” <https://thereload.com/trump-defends-bump-stock-ban-says-it-was-the-nras-idea/> In 2018, when former President Trump had the Bureau of Alcohol, Firearms and Explosives (ATF) expand its rule definition of prohibited machine guns to include bump stocks and LCMs, he credited the expansion as being the NRA’s idea. *Id.* Further, state bump stock bans have been signed by Republican governors, including in Massachusetts, Florida, Maryland and Vermont.

We all fervently want to reduce the chance of more mass shootings in Maine. States that have bump stock bans have substantially fewer high fatality mass shootings than states that do not. From 1990 to 2017, states *with* bump stock bans had rates of high fatality mass shootings that were well less than half the rate of states *without* bump stock bans. This bill will keep Maine communities safer from another high fatality mass shooting.

Moreover, courts have consistently found that state laws banning bump stocks are constitutional, including:

1. **Connecticut**: In *National Ass’n for Gun Rights v. Lamont*, CV 3:22-1118 (U.S. Dist. Ct., Conn., 2023), the court declined to enjoin Connecticut’s LCM ban, finding that plaintiffs had failed “to meet their burden to show that...LCMs are protected by the Second Amendment,” and noting that “[t]he psychological impact of mass shootings on the psyche of law-abiding Americans is also new and unique. Mass shootings cause ‘significant emotional and mental health harms’ to survivors, but also cause ‘broad social damage’ such as increased stress in the surrounding community and general population at large.” The 2d Circuit Court of Appeals affirmed the district court’s order, and the U.S. Supreme Court declined to hear an appeal.
2. **Delaware**: In *Delaware State Sportsmen’s Ass’n v. Delaware Dep’t of Safety*, CV No. 22-951-RGA (U.S. Dist. Ct., Del., 2023) the court noted that “LCMs implicate...unprecedented societal concerns for public safety” and found that Delaware’s bump stock ban was constitutionally “consistent with the Nation’s historical tradition of firearm regulation.”
3. **District of Columbia**: In *Hanson v. District of Columbia*, Dkt. No. 23-7061(D.C. Cir., 2022), the federal court denied a preliminary injunction against DC’s bump stock ban, finding that: “LCMs fall outside of the Second Amendment’s scope because they are most useful in military service and because they are not in fact commonly used for self-defense” (citing an NRA study finding no instance when more than 10 shots were fired in self-defense, with the average being two shots.). An appeal is pending.
4. **Florida**: In *Hunt v. Fla.*, No. 1D19-2143 (Fla. 1st Dist. Ct. of App., 2021) the Florida appellate court held that “[t]he trial court correctly dismissed the...complaint [challenging the constitutionality of Florida’s bump stock ban] for want of a cognizable constitutional theory for relief.” Its concurrence noted: “At issue are bump-fire stocks, public safety and the Fifth Amendment’s right to just compensation...In upholding a prohibition on the...sale of alcohol, the Supreme Court long ago concluded that a state’s regulatory power may override the interests of individuals in the control or use of property deemed harmful to society.”
5. **Hawaii**: A lawsuit challenging Hawaii’s bump stock ban, *Abbott v. Connors*, is pending, waiting the disposition of the case of *Duncan v. Becerra* (now called *Duncan v. Bonta*) by the 9th Circuit U.S. Court of Appeals. However, in February 2024, the Hawaii Supreme Court held, in another gun safety case, *State of*

- Hawaii v. Wilson*, SCAP-22-0000561, that Hawaii's Constitution guarantees Hawaiians' right "to freely and safely travel in peace and tranquillity" [similar to Maine's Constitutional guarantee to its citizens to "pursue safety," Art I §1] meaning, the court held, that there is no right "to carry deadly weapons in public."
6. **Illinois:** In *Barnett v. Raoul*, No. 23-1825 (7th Cir. U.S. Ct. of Appeals, 2023), the court vacated a lower court's preliminary injunction against Illinois' bump stock ban, finding that such "feeding devices" are not protected by the Second Amendment and that "these assault weapons and high-capacity magazines are much more like machine guns and military grade weaponry than they are like the many different types of firearms that are used for individual self-defense" and that it is "easy" to modify "the AR-15 by adding a 'bump stock' ...making it, in essence, a fully automatic weapon."
 7. **Maryland:** In *Maryland Shall Issue, Inc. v. Hogan*, No. 18-2474 (4th Cir. U.S. Ct. of Appeals, 2020), the court held that "Appellants do not state a claim that [Maryland's bump stock ban] violates the [U.S. Constitution's] Takings Clause."
 8. **Massachusetts:** In *Worman v. Healey*, #18-1545 (1st Cir. U.S. Ct. of Appeals, 2019) the court held that Massachusetts' LCM ban did not violate the 2d Amendment, noting that "[f]ew interests are more central to a state government than protecting the safety and well-being of its citizens...None of plaintiffs' six experts could identify even a single example of a...self-defense episode in which ten or more shots were fired."
 9. **New Jersey:** In *Ass'n of N.J. Rifle and Pistol Clubs v. N.J. Att. Gen.*, No. 19-3142 (3rd Cir. U.S. Ct. of Appeals, 2020) the court upheld New Jersey's LCM ban, as a "reasonable" gun regulation enacted in response to mass shootings, that did not violate the citizen's right to bear arms as guaranteed by the Second, Fifth or Fourteenth Amendments of the U.S. Constitution. Another, 2022, legal challenge to the LCM ban, *Cheeseman v. Platkin*, Dkt. No. 22-cv-4360, is pending in the 3rd Circuit.
 10. **New York:** In *Kampfer v. Cuomo*, No. 6:13-cv-82 (U.S. Dist. Ct., N.Y., N.D., 2014), the court dismissed plaintiff's claim, holding that New York's LCM ban "does not impose a substantial burden on Kamper's exercise of his Second Amendment rights." The 2d Circuit appellate court denied Kamper's appeal.
 11. **Oregon:** In *Oregon Firearms Fed. v. Kotek*, No. 2:22-cv-01815-IM (U.S. Dist. Ct., Or., 2023) the court found that "[Oregon's] LCM restrictions do not violate the Second Amendment [as LCMs are not] 'bearable arms,' [are not] necessary to render a firearm operable, [and] are not in common use today for self-defense...Mass shootings using LCMs are an 'unprecedented societal concern'."
 12. **Rhode Island:** In *Ocean State Tactical v. State of Rhode Island*, No. 222-CV-246 JJM-PAS (U.S. Dist. Ct., Del., 2022) the court held that plaintiffs failed "to demonstrate that LCMs are 'Arms' within the meaning of the Second Amendment's text [or] that LCMs are weapons relating to self-defense." It thus declined to enjoin Rhode Island's new bump stock ban. (An appeal to the 1st Circuit Court of Appeals is pending.)
 13. **Vermont:** In *Vermont v. Misch*, 2021 VT 10, the Vermont Supreme Court found "no constitutional infirmity" in Vermont's LCM ban. Another challenge to the LCM ban was filed, in *Vermont Fed. of Sportsmen Clubs v. Birmingham*, 2020 VT 27 (D. Vt.) and is pending.
 14. **Washington:** In *Brumback v. Ferguson*, No. 1:22-cv-03093 (U.S. Dist. Ct., Wash., 2023) the court held that plaintiffs had failed "to show that the text of the Second Amendment was meant to include large capacity magazines," and declined to issue a preliminary injunction against the Washington State LCM ban.

The outlier court decision is in California where a lower court enjoined California's bump stock ban on constitutional grounds in *Duncan v. Bonta*, formerly *Duncan v. Becerra*, 970 F.3d 1133, 1146 (9th Cir. 2020). However, the U.S. Court of Appeals for the 9th Circuit stayed the lower court's order and has taken up an appeal to its *en banc* court on its own motion, and it appears that the *en banc* court will find that the ban is constitutional, as it stated that California's defense of the ban is "likely to succeed on the merits." as the State "makes strong arguments" that the law comports with the Second Amendment under *Bruen*. (Oral argument scheduled for March 2024).

There is as yet no decision on the constitutionality of Colorado's LCM ban in the pending case of *Gates v. Polis*, Dkt. No. 22-cv-1866 (D. Colo.).

Thus, the overwhelming judicial authority finds LCM/bump stock bans to be constitutional.
Thank you for your consideration of these comments, and for your OTP vote for the amended L.D. 2086.