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AUGUSTA, MAINE 04333-0002
(207) 287-1400
TTY: MAINE RELAY 711

Allison Hepler

417 Montsweag Rd.
Woolwich, ME 04579
Phone: (207) 319-4396

Allison.Hepler@legislature.maine.gov

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Testimony of Rep. Allison Hepler presenting

LD 1462, An Act to Promote Artisans and the Creative Economy *Before the Joint Standing Committee on State and Local Government*

Good afternoon, Senator Baldacci, Representative Salisbury and members of the State and Local Government Committee. I am Allison Hepler and I represent the towns of Arrowsic, Georgetown, Phippsburg, West Bath and Woolwich. I am here today to present **LD 1462, An Act to Promote Artisans and the Creative Economy**.

LD 1642 would allow artists to share and sell their “expressive matter” in the public sphere, under certain conditions. Specifically, “expressive matter” is defined as “materials or objects created by a vendor with expressive content, including written material, such as newspapers, books or writings, and visual art, such as paintings, prints, photography or sculpture.” This bill also limits the vending to the actual artist; they cannot have a friend or family member do this work for them.

Maine’s artisanal economy has taken off in recent years, with an explosion of craft breweries, home-grown food sources and an anti-big box store attitude. Artists have been part of this movement, and this bill supports those efforts in our public spaces and appeals to those without access to an art gallery or a publisher.

But I want to be clear that this bill’s primary goal is not to improve the economic conditions of artists, although that activity is allowed to occur. It’s primarily a bill to highlight the First Amendment rights of artists, writers and performers and to allow “expressive matter” to be in the public square. Courts have affirmed that art and written works are “protected expressive conduct,” even when sold, and that restrictions on this activity must be reasonable and viewpoint neutral.

While LD 1642 protects those constitutional rights of artists, it also creates guardrails for municipalities, which can regulate “the time, place and manner of the vending of expressive matter.”

- This means that towns can focus on safety, sanitation and Americans with Disabilities Act (ADA) compliance. Towns can also regulate activities that interfere with “the scenic and natural character” of public spaces.

- The bill explicitly excludes materials that are “essentially commercial . . . or related solely to the economic interests of the speaker.”
- It also cannot force cities and towns to change any existing ordinances. Examples from the City of Portland and from Fort Williams Park provide guidance.

Since I am an elected local official in a small town, my intent is not to burden municipalities or create ambiguities and, in fact, the geography and “foot traffic” in many of our small towns means that such ordinances would not even be needed.

As a member or former member of several of our natural resources committees here in the Legislature, I am familiar with the challenges of making a living within the vagaries of a resource economy, even if that’s not the primary intent of this bill. In some ways, this creative economy is similar. Practitioners operate outside the boundaries of brick and mortar businesses – indeed, they literally operate outside. LD 1462 also supports the entrepreneurial spirit of Maine, encouraging our artisanal and creative traditions. I’m proud to represent the community where artists like Dahlov Ipcar and William Zorach created so many beloved works of art. There was even a summer community, Seguinland, where artists came together in Georgetown in the early years of the 20th century.

I believe that the right to produce expressive matter and local control can coexist, and that LD 1462 is a suitable venue to maintain that balance. While I am not an expert in constitutional law, or an artist, I’ll do my best to answer any questions you have.