



## MAINE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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January 27, 2021

Senator Susan Deschambault  
Representative Charlotte Warren  
Committee on Criminal Justice & Public Safety  
100 State House Station Room 436  
Augusta, ME 04330

RE: LD 417 An Act to Protect Maine's Drivers from Pretextual Stops

Dear Senator Deschambault, Representative Warren, and Members of the Criminal Justice and Public Safety Committee:

MACDL supports LD 417.

Pretextual stops are when law enforcement uses a minor traffic offense as an excuse to pull over a driver in order to investigate something else. This something else is not sufficient for law enforcement to pull the person over independent of the minor traffic infraction. In order for law enforcement to pull over a vehicle, law enforcement needs to only have a reasonable articulable suspicion that a criminal or civil infraction has occurred or is about to occur. It is a very low standard. If law enforcement cannot meet that low standard it means they have no evidence of wrongdoing, but instead have a hunch or a gut reaction.

Motor vehicles, and the operation of motor vehicles, are so heavily regulated and so many of the rules governing them are open to interpretation that essentially any vehicle that is followed by law enforcement for even a short period time is more likely than not to run afoul of some violation that would allow a stop.

Pretextual stops disproportionately effect people of color and poor people. This is supported by data from the federal government, multiple studies, and a multitude of law review articles. Pretextual stops are simply an end run around an individual's right to be free from government intrusion.

Additionally, MACDL supports the bill because the amended language does away with roadside interrogations that are unrelated to the initial stop of the motor vehicle. The stop of the motor vehicle should be about the reason for the stop and nothing more. Even the seemingly simple questions of where are you going and where are you coming from are not simple and should not be asked. When a person of color is asked these questions in an all white area or when a poor person is asked these questions in an affluent area it implies that you do not belong and that you are not wanted here. This is an unacceptable practice and should end.

Lastly, I have heard objections that claim that this bill prohibits law enforcement from doing their job. It does no such thing. If during the course of a legitimate non-pretextual stop law enforcement develops reasonable articulable suspicion that another crime has occurred then at that point they may investigate the new crime. Take for example the following scenario: law enforcement pulls over a vehicle for an out tail light. Law enforcement interacts with the driver to issue a ticket for an out taillight and during that interaction law enforcement develops reasonable articulable suspicion that the driver is impaired. At that point law enforcement can investigate and question the driver about driving impaired. Again, nothing in this bill prohibits this. To put it in the simplest terms, what this bill makes law is that you need a reasonable articulable suspicion to do something and you cannot take reasonable articulate suspicion and transfer it from one thing to another.

Sincerely,

/s/ Jeremy Pratt

Jeremy Pratt  
Vice-President, MACDL