



Maine Municipal  
Association

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Maine Municipal Association

Testimony in Opposition to

LD 1052- *An Act To Protect the Firearm Use and Possession Rights of Maine Citizens during an  
Emergency*  
and

LD 1315- *An Act To Protect Firearm Use and Possession Rights during a State of Emergency and  
Require a Two-thirds Vote by the Legislative Council To Declare or Extend a State of Emergency*

May 03, 2021

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Senator Deschambault, Representative Warren, and distinguished members of the Criminal Justice and Public Safety Committee, my name is Rebecca Graham, and I am testifying in opposition to LD 1052 and LD 1315 as directed by MMA's 70 member Legislative Policy Committee.

As drafted, these bills have far reaching implications for the ability of municipal officials to manage and address temporary and situationally necessary prohibitions on activity during civil unrest, including natural disaster related incidents or local violent protest where the balance of unchecked liberty is weighed against the protection of resident life and property.

While municipal officials are sympathetic to the issues felt during the last emergency (and ongoing emergency) legislation must be prospective (or forward thinking) and embrace the flexibility necessary to respond to most emergencies municipal officials have encountered historically as well as those not yet encountered.

There are only two constitutional rights that are absolute in their application with no ability for the government to ignore or suspend at any time. These are the right not to be tortured and the right to not be enslaved. As there are multiple limits on the right to own, possess, and carry firearms these bills propose to treat them as absolute rights simply because of an emergency which is temporary and geographically limited. Lawful use, possession and sale of firearms includes the adherence to existing law and emergency temporary law which makes both these bills contradictory when referring to "lawful use".

During an incident of civil unrest, the ability to temporarily halt the sale of weapons and ammunition could conceivably be necessary to limit the access to additional arms by the

aggressors. This bill would prohibit municipal officials from closing weapons stores during a large protest and potentially escalate the situation with no recourse to protect responders or citizens living nearby. The bills would also limit the ability for municipalities to ensure the prioritization of weapons and ammunition sales to police responders over the public which may also be necessary.

In conflicts of an internal nature, police are on the front lines and must assess who is a combatant and who is a bystander without the benefit of uniformed distinctions between the two as found in many areas of conflict. In law and practice, this is done not only by assessment of action, but the possession of a weapon. Lawful gun owners need to remain home, not shop in a community during such an incident.

As municipal emergencies pertain only to the borders of that municipality, such prohibitions are entirely local in nature and not a complete infringement on a qualified right.

Additionally, LD 1315 suggests that municipal officials should be processing concealed handgun permits during an emergency as a priority operation rather than shift the duties of staff to running shelters, securing supplies, or assisting residents to get out of harms way. This strike municipal officials as absurd particularly when all unnecessary administrative duties are generally suspended and may not even be possible without access to power or internet services. As drafted, municipalities could be open to litigation for prioritizing protecting residents over processing paperwork for an eager applicant.

Emergency communications and power need to be used during an emergency to protect life, not process paperwork that does not support the current efforts.

Municipalities can limit the hours of operation for shooting ranges in their communities through ordinance which has allowed such facilities to remain in highly developed areas in balance with those who seek to close them entirely. As drafted, this bill would preempt municipal ordinance compromises and remove the protections that has prevent such facilities from being closed by critics and make it harder for new facilities to open.

While municipal officials understand these bills come from concern about the closure of all stores during a health crisis vs. civil unrest, the net effect is that the language limits the responses available for officials to respond to a wide variety of emergencies, opens law enforcement up to unnecessary threats, opens officials up to litigation for unnecessary paperwork processing or requires additional duties diverting municipalities from dealing with the situations at hand.

Officials believe emergencies are temporary in nature at the local level, have built in local legislative body review deadlines for continuing a local state of emergency determined directly by their voting residents, and require flexibility that would be lost with the passage of these two bills.

For all these reasons, municipal officials ask you to vote ought not to pass as drafted or simply remove municipalities from the bills entirely.