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Testimony of Lieutenant Michael P. Johnston
Maine State Police
Department of Public Safety

Oppose LD 1052

An Act To Protect the Firearm Use and Possession Rights of Maine Citizens during an
Emergency
Sponsored by Representative Andrews

Senator Deschambault, Representative Warren and honorable members of the Criminal Justice and Public Safety Committee: My name is Lieutenant Michael Johnston and I am submitting written testimony today on behalf of the Maine State Police and the Maine Department of Public Safety to testify in opposition to LD 1052 "An Act To Protect the Firearm Use and Possession Rights of Maine Citizens during an Emergency."

We oppose the proposal in the bill under 25 MRSA §2011(A-2)(9) that excepts from the provisions a law enforcement officer's seizing a firearm, ammunition or accessories or components while detaining an individual for suspected criminal activity pursuant to a warrantless arrest.

The provisions of subparagraphs (1) and (2) do not limit the authority of a law enforcement officer to remove a firearm or ammunition from a person pursuant to other lawful authority. A law enforcement officer who is acting in the lawful discharge of the officer's official duties without a warrant may disarm a lawfully detained individual only temporarily and only if the officer reasonably believes it is immediately necessary for the protection of the officer or another individual. Before releasing the detained individual, the law enforcement officer shall return to the individual any seized firearm, ammunition or component of a firearm or ammunition, firearm

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accessory, ammunition reloading equipment and supplies and any personal weapon other than a firearm taken from the individual, unless the officer takes the individual into physical custody for engaging in suspected criminal activity or for observation pursuant to Title 34-B, section 3862 or seizes the item as evidence pursuant to an investigation of the commission of a crime.

We feel this statute could muddy the waters and create confusion with respect to law enforcement's authority when handling similar encounters and enforcing all laws unrelated to specific provisions of this bill. This bill arguably creates a dual standard for these types of investigative detentions that conflicts with other provisions of both Maine statutory law (17-A §§ 15-A and 17) and well-established case law at the State and federal level governing laws of arrest, detention, search and seizure. Laws related to investigative detentions are a complex, nuanced mixture of fact and law that are subject to change by judicial decision. This confusion regarding the scope of their authority could result in indecision on behalf of the officer during these encounters.

For these reasons, I urge you to vote Ought Not To Pass on LD 1052.

On behalf of the State Police and the Department of Public Safety we appreciate your careful consideration of these issues.

Respectfully,

Lt. Michael Johnston