

Oral Testimony from Thomas Bryant

May 7, 2021

I'm Tom Bryant. I live at 32 JB's Way, in Wiscasset, and I appreciate this opportunity to testify about LD 1307.

I really don't know where to begin. After living for the past 7+ years as the neighbor of an illegal fireworks warehouse, I certainly have a lot of things I could tell you.

I could talk about what it has been like to live with a large fireworks warehouse, full of explosives, located a mere 16 feet from our driveway, JB's Way, a dead end residential road that we share with the warehouse. That certainly has generated a lot of stress in our lives, over a period of years. Ongoing. Continual. Stress. For more than 7 years.

Or, I could talk about the **variety** of different violations that led to litigation which was, eventually, the impetus for LD 180, of which this committee is aware.

I could also talk about the recent Kennebec County Superior Court ruling, stating in essence, that off-site storage of consumer fireworks is not permitted without a separate retail sales license.

But I'm afraid I have to keep this somewhat short. So...

What I'd like to talk about today is that (regarding fireworks) the Legislature has essentially three choices this session:

1. Do nothing, keeping the status quo, or
2. Pass LD 180, perhaps with amendments to protect the general public, or
3. Pass LD 1307, which would essentially ban most consumer fireworks in Maine.

Option 1, doing nothing, is not a viable option since many fireworks vendors in the State of Maine are storing fireworks illegally in off-site locations, which has been deemed illegal by a recent Superior Court decision.

Option 2, passing LD 180, which would allow offsite storage facilities, is flawed because it does not adequately address three issues:

1. The term "Residential Area" is not defined, leaving it up to the State Fire Marshal's Office to interpret, and they have stated that they don't have the expertise to do that, and that they would defer that determination back to the towns. Meanwhile, there is another court decision, LINS-AP-15-001, that states: "**Here, compliance with NFPA standards falls within the jurisdiction of the State Fire Marsall (sic). The Planning Board has no authority to review or apply NFPA 1124...**" Thus, we're left with a "Catch-22" situation: on the one hand the State Fire Marshal's Office has stated that they cannot interpret the standard, and on the other hand, the Court has stated that the Town is not

authorized to do so. That leaves no one to determine what is or is not a “Residential Area.” And that leaves people who clearly live in a “Residential Area”, but don’t happen to have **Residential Zoning**, without any protection from the hazards, **physical, emotional, and financial**, posed by the presence of consumer fireworks storage facilities in their midst.

2. NFPA 1124, which would be invoked by LD 180, does not provide any setback requirements (none at all) between a consumer fireworks **Distribution Facility** and a highway. Although we realize that the SFMO has stated (in the 2/17/21 work session for LD 180) that such a setback requirement exists, we are convinced that it does not. (You can easily verify this for yourself, simply by checking NFPA 1124.) There is a setback requirement stated in Paragraph 6.7.2, but that covers storage at **manufacturing** facilities, not **distribution** facilities. The paragraph that does cover distribution facilities is Paragraph 6.7.1, and that provides absolutely no setback requirements between a highway and a distribution warehouse. Without such a requirement, any fireworks vendor would be free to place his warehouse as close to a highway as state and local regulations allow for any other type of facility, perhaps only a few feet from the travel lane.
3. The two NFPA standards invoked by LD 180 (NFPA 1124, and NFPA 495) have conflicting definitions of “Highway”. Any reference to those two standards should invoke a consistent definition of “Highway”, and make it clear that the more inclusive definition found in NFPA 495 is to be used.

Option 3, passage of LD 1307, would rectify all the problems identified above for Options 1 and 2, and is the option that we support.

It is time to stop the incessant stream of injuries (and at least two deaths) in Maine due to consumer fireworks.

Thank you for this opportunity to discuss LD 1307. Does anyone have any questions?