

TESTIMONY OF MICHAEL KEBEDE, ESQ.

LD 1479 – Ought to Pass

An Act To Make Certain Traffic Infractions Secondary Offenses

Joint Standing Committee on
Criminal Justice and Public Safety

February 25, 2022

Senator Deschambault, Representative Warren and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, greetings. My name is Michael Kebede and I am Policy Counsel for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, I am here to testify in favor of LD 1479.

In the United States, everyone drives on the same pavement, yet that pavement is divided by insidious color lines. Those lines are maintained, among other things, through traffic stops for low-level infractions. Police officers can use these low-level infractions to legitimize an otherwise unlawful traffic stop. They will say they are pulling someone over for a minor traffic violation or vehicle equipment violation, but the actual motivation for the stop is discriminatory and unsupported by the constitution. Informed by implicit or explicit racial bias, an officer might decide to pull over a driver because they find a driver's race, appearance, gender, location, car or record "suspicious," while giving a minor traffic violation as the stated reason for pulling a person over. That's where implicit or explicit racial bias comes into play.

The best national data we have on stops of this sort tells a consistent story: Black, brown, and Indigenous people are more likely than anybody else to be stopped, and more likely than anybody else to be searched. After crunching data from almost 100 million traffic stops compiled by Stanford University's Open Policing Project, NBC News found "that police stopped and searched black and Latino drivers on the basis of less evidence than used in stopping white drivers."¹ The same researchers concluded that white drivers, "who are searched less often . . . are more likely to be found with illegal items."² Maine conforms with this national picture.

¹ Eric Ortiz, *Inside 100 million police traffic stops: New evidence of racial bias*, March 13, 2019, NBC News, <https://www.nbcnews.com/news/us-news/inside-100-million-police-traffic-stops-new-evidence-racial-bias-n980556>

² *Id.*

On August 15, 2019, Maine State Trooper John Darcy pulled over a Black man who was driving north through York on Interstate 95. The internal microphone in the cruiser recorded his comments to another trooper moments before the traffic stop. Darcy said, “This guy kinda looks like a thug to be honest with you,” according to a transcript in one motion in that case.³ Darcy also said that the driver, an African American man, looked “like a thug” because “he’s wearing a wifebeater” and “he’s got dreads.”⁴ This specific case is a small window into a larger picture of who is pulled over in Maine.

According to a national ACLU study released last year, Black people in Maine were four times more likely than white people to be arrested for cannabis possession in 2018.⁵ In York County, Black people are more than twelve times more likely than white people to be arrested for cannabis possession.⁶ These disparate arrest rates do not reflect a disparate rate of possession of cannabis; instead, these rates reflect a racially disparate rate of police interactions with the public. The impact on of discriminatory traffic stops cannot be overstated; these traffic stops can erode respect for the law, and traumatize drivers, especially drivers of color, who are pulled over more often.

This bill would help Maine take a small step away from the harms of traffic stops for low-level infractions. If enacted, this bill would help ensure that police cannot stop drivers for low-level infractions that are unrelated to criminal activity. This change would help ordinary people, especially people of color, enjoy the constitutional right to be free from unreasonable searches and seizures. We urge you to vote *ought to pass*.

Thank you for your attention.

³ Megan Gray, *Criminal case dropped as state trooper faces racial profiling allegations*, Press Herald, Oct. 8, 2020, <https://www.pressherald.com/2020/10/08/criminal-case-dropped-as-state-trooper-faces-racial-profiling-allegations/>

⁴ *Id.*

⁵ A Tale of Two Countries Racially Targeted Arrests in the Era of Marijuana Reform, ACLU, July 1, 2020, at 68, https://www.aclu.org/sites/default/files/field_document/tale_of_two_countries_racially_targeted_arrests_in_the_era_of_marijuana_reform_revised_7.1.20_0.pdf

⁶ *Id.*