

TESTIMONY OF MICHAEL KEBEDE, Esq.

LD 269 – Neither For Nor Against

An Act To Prohibit Smoking in Bus Shelters

Joint Standing Committee on Health and Human Services

March 4, 2021

Senator Claxton, Representative Meyer and members of the Joint Standing Committee on Health and Human Services, 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 through advocacy, education, and litigation. On behalf of our members, we testify neither for nor against this bill. We are submitting written testimony to highlight some concerns with the penalty that would be associated with this bill.

If enacted, this bill would explicitly prohibit smoking in bus shelters. The intention behind this bill is good: to guarantee healthy, breathable air to those in the proximity of someone who is smoking in public. This is particularly important in a pandemic caused by a respiratory illness. Moreover, the enforcement mechanism for this bill would not be criminal, which is particularly commendable. For decades, our country has overused arrests and imprisonment to enforce drug policy. Instead of arrests or imprisonment, the penalty for violating this bill would be a civil fine.

Although better than incarceration, civil fines pose a serious a problem for low-income Mainers, who tend to be disproportionately people of color. The \$100 to \$1500 penalty for violating the law this bill would create is a significant sum for people with low incomes. 22 MRS § 1545. It could have the unintended effect of further impoverishing people who already struggle with poverty. Accordingly, in this and future similar instances, we recommend that the committee consider other means of enforcing its drug policy. For example, a robust public

education campaign that involves posters and other messaging in public places could achieve the same outcome, or increasing resources for smoking cessation.

We recognize and affirm the importance of ensuring healthy air for Mainers, particularly those who are elderly, and whose economic circumstances compel them to share public spaces with others. That is why we testify neither for nor against this bill, and offer our sincere thoughts on its enforcement mechanism.

Thank you for your time and attention.