



Testimony in Opposition to LD 1344: ["An Act To Clarify the Authority of the Department of Health and Human Services during a Public Health Emergency"](#)

Senator Claxton, Representative Meyer, and the distinguished members of the Committee on Health and Human Services, my name is Nick Murray and I serve as policy analyst for Maine Policy Institute, a nonpartisan, non-profit organization that advocates for individual liberty and economic freedom in Maine. Thank you for the opportunity to testify on LD 1344, a bill that would dramatically expand executive branch power, and degrade the liberty of Maine people.

LD 1344 would codify authority for DHHS to fine, suspend licenses of, and ultimately close down businesses if they "directly and repeatedly violate public health control measures" during a declared emergency.

This punishment would be exempt from the hearing process under the Maine Administrative Procedure Act,¹ and section 7 of the bill would go even further to exempt license suspensions from the normal 30-day maximum currently outlined in statute.

Licensees would be able to request that the District Court hear their appeal, but the bill specifies that each "suspension remains in effect pending the District Court's review." Essentially, a business owner who challenges the department's rules would be guilty until proven innocent. The state could twist arms, shutting down a family's source of income while they must plead their case in court.

Until last year, most of us had never contemplated a 14-month long emergency. Public health policy, like scientific understanding, can shift significantly over time. It should be held to the same standard of accountability that we demand of public servants, even in an extended emergency situation.

Just in the last year, we have seen the goals of public health evolve, like the virus it has targeted. Over these long months, we have been told by Governor Mills, Dr. Shah, Commissioner Lambrew, and other administration officials that the broad restrictions on business capacity, gatherings, schools, travel, etc. must continue, until...

- "We flatten the curve"
- "We can keep case counts low"
- "A vaccine is widely available"

¹ M.R.S.A. 5, §10004

- “*Vaccination* is widespread”
- “The variants are under control in the state... in the region... in the nation... across the globe”

In 2007, Dr. Donald A. Henderson, former director of the World Health Organization effort which eradicated smallpox in the 1970s, co-authored a paper in response to a recent CDC plan to institute this type of experimental pandemic response, initially called “Early, Targeted, Layered Use of Nonpharmaceutical Interventions.”²

In that prescient document, Henderson et. al vigorously cite decades of disease mitigation precedent which condemn the coercion-based public health philosophy that leads to closed schools, mandatory mass quarantine, and a general shutdown of society. They close with this:

“Experience has shown that communities faced with epidemics or other adverse events respond best and with the least anxiety when the normal social functioning of the community is least disrupted. Strong political and public health leadership to provide reassurance and to ensure that needed medical care services are provided are critical elements. If either is seen to be less than optimal, a manageable epidemic could move toward catastrophe.”³

Maine's emergency power statute already allows the governor broad discretion to determine what constitutes a disaster or emergency.⁴ Both the governor and DHHS have the authority to declare a health emergency and enforce their rules.⁵ Emergency executive branch orders receive little public input, and cannot be specifically amended or rescinded by the legislature.

The question becomes: if Maine DHHS had this power through Gov. Mills’ executive orders under the current Civil State of Emergency, why does it need to be clarified in statute? What more would this bill add?

This bill is unnecessary at best, and at worst, a bureaucratic power grab. Please deem LD 1344 “Ought Not to Pass” and show your compassion for the thousands of Mainers still struggling to make ends meet in the midst of persistent current restrictions. Thank you for your time and consideration.

² [Interim Pre-pandemic Planning Guidance: Community Strategy for Pandemic Influenza Mitigation in the United States](#) | US Centers for Disease Control and Prevention, February 2007

³ Inglesby et. al, ["Disease Mitigation Measures in the Control of Pandemic Influenza."](#) *Biosecurity and Bioterrorism: Biodefense Strategy, Practice, and Science*; Volume 4, Number 4, 2006. Re-published on AIER.org, May 21, 2020.

⁴ M.R.S.A. 37-B, §742

⁵ M.R.S.A. 22, §802 sub-§2