



# Maple Hill Farm Inn and Conference Center

**One of "The Best 5 Green Inns and Hotels"** *Yankee Magazine, 2017*

**"Best Green B & B"** *Yankee Magazine Editor's Pick, "Best of New England" 2011*

**Greater Augusta's "Best Bed and Breakfast"** *Market Surveys of America, Sixteen years running 2007-2022*

**Maine's First Certified "Environmental Leader" Green Lodging** *Maine Dept. of Environmental Protection, 2005*

**One of "30 Great U.S. Inns"** *Travel+Leisure, June 2002*

**"Best of Both Worlds. Editors' Pick"** *Yankee Magazine's Travel Guide to New England, 2002 & 2003*

**"Best Bed and Breakfast Hands Down"** *Maine Times, 1997*

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February 12, 2023

Hon. Joe Baldacci, Senate Chair  
Hon. Michele Meyer, House Chair  
Joint Standing Committee on Health and Human Services  
Room 209, Cross Building  
Augusta, ME 04333

Re: Opposition to LD 146, An Act to Clarify Assessment of Fines for Tattoo Artists, Body Piercers, Electrologists and Micropigmentation Practitioners and to Change Requirements for the Approval of Public Pool and Spa Plans

Dear Senator Baldacci, Representative Meyer, and Distinguished Members of the Committee:

My name is Scott Cowger from Hallowell, and I am the co-owner of the Maple Hill Farm Inn and Conference Center, a modest property with only eight guest rooms. My apologies for not presenting this testimony to you at the public hearing for this bill, but in these days of labor shortages, I'm often needed at the Inn to help with the events that we hold, and could not be here until you had completed the public hearing last week.

My opposition to LD146 is strictly limited to Section 1 of the bill, and it is also limited to the regulation of free-standing or "self-contained" spas, but my opposition is two-fold. I speak on behalf of many small bed and breakfast owners and vacation rental property owners throughout Maine that have self-contained spas on their properties.

Our inn in Hallowell is open all year-round, and we are the one property that has consistently offered both the leisure and business traveler (and some legislators) an alternative to the hundreds of hotel rooms located in Augusta. We have been here since 1989 and the struggle has always been to maintain revenue and viability during the winter months. The addition of our dry sauna and outdoor hot tub in 2010 was critical to developing our winter business and it now enables us to keep employees year-round. Any regulation that would cause us to lose our outdoor hot tub would be devastating.

In my testimony, I am using the terms “hot tub” and “spa” interchangeably, and equal to the term “Spa” defined in statute at Title 22 Section 2662.

## BACKGROUND

Here is some quick background: In 2012, the state health inspector showed up at our inn and informed us that our residential-style self-contained spa unit that had been installed several years earlier would need to be shut down until it could meet the state standards for commercial pools and spas. Unfortunately, there is NO WAY to modify a self-contained spa unit to meet the state standards without an exorbitant cost, and in fact THERE HAS NEVER BEEN A MODIFICATION OF A SELF-CONTAINED SPA to meet the state’s commercial standard. This is simply not practicable or in any way economically feasible.

It appears as if our inn was one of the first of these self-contained residential spas to be pushed into meeting the state’s commercial spa regulations, but there were many of these in use throughout the state, primarily at small lodging properties and cottages. While the lodging industry and vacation rental properties expressed great concern about the regulation of these spas, the Maine CDC issued a guidance in August 2012 that exempted residential spas from any regulation, *BUT REQUIRED ANY REPLACEMENT OR NEW SPAS TO MEET THE COMMERCIAL STANDARDS* as listed in Section 1 of LD 146.

## OBJECTION TO LD 146

Section 1 of this bill not only continues to apply a national commercial spa standard to all properties, regardless of size or spa bathing load, but adds a professional engineering certification for each new or replacement spa, again regardless of the size of the property or intensity of use of the spa. This adds an unreasonable burden using a 42 page checklist that was developed by the Department for spas at small properties and with small bathing loads. I believe that there should be **an exemption for any self-contained spa** as these are what are typically in use at smaller properties with low bathing loads.

An accurate definition for a self-contained spa can be found on page 39 of the Department’s Public Spa Design Checklist, and is also defined by the National Pool and Spa Institute, as follows:

**Self-Contained Spa:** A spa in which all control, water heating and water circulating equipment is an integral part of the product. Self-contained spas may be permanently wired or cord connected.

For more detail, please see below regarding the need to permanently exempt self-contained spas from the requirement to meet commercial spa standards.

## **OBJECTION TO REGULATING RESIDENTIAL SELF-CONTAINED SPAS**

The current law in Title 22 Section 2661 et seq. requires the Department to adopt rules regarding the design, construction, and operation of public pools and spas. These rules (10-144 CMR Chapter 202, effective September 1, 2010), and the standards mentioned in Section 1 of this bill (the American National Standards Institute and the Association of Pool and Spa Professionals) are standards for true “commercial spas” that are constructed underground (in our climate) and are installed where high volumes of users are going specifically to use the spa, like a YMCA, a resort, or a larger hotel. These spas typically have a surrounding deck, and stairs descending down into the spa. In northern New England, we have a somewhat unique plethora of bed and breakfasts and small inns relative to the rest of the country, and the application of this one-size-fits-all model is entirely unreasonable and not practical. The small properties that have spas generally have above-ground self-contained units and these national standards were not designed for these sorts of spas.

### **LACK OF ACHIEVABILITY**

No residential style self-contained tub has EVER been retrofitted to conform to these national standards. Mainely Tubs, a major dealer of quality hot tubs with headquarters in Scarborough, has been installing and servicing hot tubs throughout New England for over 40 years, and sold over 3000 tubs last year alone. They have NEVER CONVERTED any self-contained spa over to meet the above commercial standards. Furthermore, they don’t even know what that potential cost could be. These self-contained spas simply cannot be retrofitted to meet the standards.

**The cost of a new quality self-contained spa could cost around \$10,000. But the cost of an in-ground commercial spa that was compliant with the national standards would start around \$90,000 for a very modest installation.** (This estimate was provided to me by Premier Pools and Spas in Lewiston.)

The current regulation which requires new and replacement spas to meet commercial standards is not practicable and is certainly not economically achievable, especially for small properties which make up a large percentage of lodging properties in Maine. **The current laws and regulations for spas will force small properties to give up their self-contained spas as they simply won’t be able to afford a commercial installation.**

Laws and their associated rules should be based on what is readily achievable and practical. The current one-size-fits-all rules for spas do not reflect this reality for self-contained spas. I have no objection to the commercial state or national standards being applied to in-ground or purpose-build spas. My objection is the unreasonable application of these standard to self-contained spas predominantly used at smaller properties.

### **UNFAIR STANDARD**

The Department is only regulating spas that are at properties or businesses that are otherwise regulated. As you well know, there is a growing abundance of totally unregulated vacation rental properties through channels like AirBnB and VRBO, as well as the traditional vacation rental properties often rented through local real estate offices and dedicated rental agents. **Many** of these properties have hot tubs, and a simple search on AirBnB shows 979 listings with hot tubs –

all unregulated (except for a small amount of overlap with regulated properties). The same search on VRBO comes up with 500 properties.

Applying a national standard for high-use commercial spas to small inns and bed and breakfasts, while not beginning to regulate all of these other vacation properties is inherently unfair. In my opinion, the number of spas at regulated/licensed properties is probably *much less* than the number of spas at unregulated properties.

### **LACK OF ENFORCEABILITY**

Many of the properties that have self-contained tubs are primarily residential in nature, whether it is someone's home that has been converted to a bed & breakfast, or a home or cottage that is rented out to help generate some additional income. The above AirBnB, VRBO, and vacation rental properties will not be visited by a health inspector and will not require any of their spas to be regulated by the state. It will also be difficult to discern the personal use of a spa by a homeowner and their guests at small bed & breakfast properties that are quite unique here in northern New England.

### **SUGGESTED AMENDMENT**

In light of all of the above, I suggest that residential-style self-contained spas become permanently exempt from meeting the requirements for commercial spas. I believe the easiest way to do this is to add the definition of "Self-Contained Spa" to Title 22, Section 2662, and that the definition of Public Spa in the same section be amended to read:

<p><b>6. Public Spa.</b> "Public Spa" means any constructed spa other than a residential spa, <del>or</del> medical facility spa, or self-contained spa.</p>
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Please correct the existing law to create something that is achievable, practical, fair, and enforceable. Maine is a unique state, and we should not force our small businesses who are willing to be regulated into losing amenities that their guests desire.

I am happy to assist in any way on this issue, both in terms of my research and my time.

Thank you for the opportunity to present this testimony to you.

Sincerely,



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Cc: Nate Cloutier, Hospitality Maine  
Lisa Silva, Maine CDC Health Inspection Program Manager