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Sen. Baldacci, Rep. Matlack and distinguished members of the State and Local Government Committee, thank you for the opportunity to provide written testimony in support of LD 805, "An Act To Allow Municipalities To Prohibit Firearms at Voting Places."

For 21 years the Maine Gun Safety Coalition has advocated for commonsense gun safety measures that can and will save the lives of Mainers while still protecting the rights afforded gun owners under the state and federal constitutions. LD 805 is just such a bill.

During the the written and oral testimony on LD 805, it is likely that you will hear many proponents speak to personal reasons why this bill should become law – their desire to feel safe and not intimidated while casting a vote; the importance of not elevating one’s Second Amendment right to carry a firearm anywhere, anytime they choose over someone else’s right to be free from fear and intimidation while exercising their First Amendment right to choose the members of their governemnt. These are powerful and important arguments, and we join in arguing that those alone should propel this bill to the status of law.

We are, however, congizant of the fact that you will read and hear testimony opposing this bill as “unconstitutional” and unecessary given that Maine has not yet experieced a widely-publicized act of armed violence or intimidation at the polls. Our written testimony will focus on rebutting these legally and factually inaccurate claims.

In the run up to the 2020 election, voting officials and law enforcement saw an unprecedented rise in threats to polling places¹ from armed extremists and others who wished to disrupt the voting process by threatneing violence or intimidating voters.² Unfortauantely, this was not surprising considering the charged atmosphere at the time. There is no reason to think that future elections will be less fraught with partisan rancor, nor is there any reason to suspect that threats to election locations will disipate in the future, a fact that

¹ <https://www.wsj.com/articles/states-prepare-to-guard-against-potential-voter-intimidation-and-violence-around->

² <https://www.nbcnews.com/politics/2020-election/u-s-police-chiefs-grapple-new-election-day-threat-armed-n1243826>

organizations that study law and policy acknowledge when they call for measures similar to LD 805.³

Maine is fortunate that many of its polling places are already located in facilities that do not allow firearms, including schools, religious buildings, and non-government private property (like social clubs). Accordingly, the number of polling places that would be effected if LD 805 became law would be a small fraction of the overall election locations. This number would be reduced even further by the number of towns that elected to exercise their ability to ban firearms from polling places. Nevertheless, town officials must be empowered to react to real threats in real time, to secure their facilities and protect their residents, and to respond to the wishes of those who reside in their town and wish to vote in a location free of firearms. One can easily imagine a scenario where in the days before an election, a credible threat of violence or intimidation at a polling place in a Maine town is received by law enforcement, but without this law in place, town officials would be unable to react appropriately, powerless to ban the possession of firearms in the election location. LD 805 simply empowers towns to respond to those threats in a timely manner. As with so much opposition to commonsense gun safety legislation, MGSC once again asks why must we wait for a completely foreseeable tragedy to act? Why must Mainers wait for their right to vote be disrupted or eliminated by those who want to intimidate others by openly displaying firearms inside of a polling place, claiming, falsely, that the Second Amendment gives them that right? We should not have to wait, and indeed, we must not wait.

In response to the argument that the rights that would be afforded Maine towns under LD 805 are in violation of the state or federal constitutions' rights regarding the possession of firearms, such arguments are simply inaccurate. As a starting point, the United States Supreme Court in the case of *District of Columbia v. Heller* found that there was a Second Amendment right to a firearm for private purposes, but also made clear that significant restrictions on that right were absolutely constitutional.⁴ As Justice Scalia's majority opinion announced, "nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or *laws forbidding the carrying of firearms in sensitive places such as schools and government buildings*["]⁵

Currently, 11 states and the District of Columbia have some form of ban on the possession of firearms at polling places.⁶ Texas, Arizona, California, Florida, Georgia, Louisiana, and the District of Columbia all ban the concealed *and* open carry of firearms. Mississippi and Missouri ban concealed carry but allow open carry. Nebraska prohibits concealed carry and allows open carry only for poll officials. Ohio prohibits concealed and open carry for poll watchers, while Nebraska prohibits concealed carry, but allows only long guns to be carried openly. Every single one of these restrictions remains law, none have been found unconstitutional or an abrogation of any citizen's Second Amendment right. Indeed, many state have laws dating back centuries banning the possessing of guns at polling places, giving lie to the argument that LD 805 is part of

³ https://www.americanbar.org/groups/public_interest/gun_violence/policy/21m111/

⁴ <https://supreme.justia.com/cases/federal/us/554/570/#tab-opinion-1962738>

⁵ Id. (emphasis added).

⁶ <https://giffords.org/lawcenter/gun-laws/policy-areas/guns-in-public/location-restrictions/>

some new wave of gun restrictions.⁷ Delaware (1776), Tennessee (1869), Louisiana (1870), Texas (1873), and Maryland (1874 and 1886), all had laws restricting the ability of residents to carry firearms inside of voting locations. And while Maine's constitutional provision addressing the right to keep and bare arms is arguably worded in a more robust manner than the federal constitution's Second Amendment, no court of this state has found a polling place restriction to be in violation of its terms.

Every Constitutional right is subject to some reasonable restrictions. Few rights are as foundational to our nation than that of free speech when it comes to political persuasion. And yet, Maine and many other state laws prohibit political speech and electioneering within 250' of the entrance to a polling place. This law is not and has not been found to be unconstitutional. LD 805 borrows that exact restriction – 250 feet – and applies it to another constitutional right, the possession of firearms.

Accordingly, when you read or hear testimony declaring LD 805 a violation of the Second Amendment, or Maine's analogue, know this: The claim is false, and contrary to decades of statutory law and jurisprudence.

The Maine Gun Safety Coalition supports LD 805 because we believe local governments in our state should have the ability to respond to threats of armed violence and intimidation in a timely manner when it comes to protecting our polling places. We believe that no constitutional right should be found to trump another, and the Second Amendment right to carry arms to intimidate or threaten at voting locations should not supersede the First Amendment right to expression by choosing elected officials. We know this law is constitutional. On behalf of our Board of Directors and our thousands of statewide supporters, we urge this committee to issue an "Ought to Pass" report on LD 805.

Sincerely,

Geoff Bickford
Executive Director
(207) 780-0501
Geoff@mainegunsafety.org

⁷ <https://firearmslaw.duke.edu/2021/02/carrying-guns-at-the-polls-what-does-the-second-amendment-have-to-say/>