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February 25, 2021

Testimony of Meghan Russo  
Maine Department of Transportation  
Before the 130<sup>th</sup> Legislature, Joint Standing Committee on Transportation

**Neither For Nor Against**

**LD 395**

*An Act To Remove the Authorization for Temporary Signs To Be Placed in the Public Right-of-way*

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Senator Diamond, Representative Martin, and members of the Joint Standing Committee on Transportation, my name is Meghan Russo, and I am the Legislative Liaison for the Maine Department of Transportation. MaineDOT is neither for nor against LD 395, *An Act To Remove the Authorization for Temporary Signs To Be Placed in the Public Right-of-way*.

MaineDOT has long accommodated the placement of signs in the public right-of-way (ROW) in accordance with the Maine Traveler Information Services Act, as defined in 23 MRSA 1913-A. LD 395 proposes to remove the authorization for a person to place a temporary sign within the public ROW.

As the members of this committee will remember, the U.S. Supreme Court's 2015 ruling on Reed v Town of Gilbert prohibits government regulation of temporary signs in the public right-of-way based on content. The Reed decision specifies that temporary signs in the public right-of-way can only be regulated in terms of time, place, and manner. The Court noted that a governmental entity may go a long way toward entirely forbidding the posting of signs on public property so long as it does so in an evenhanded, content-neutral manner. We do have concerns, however, that the blanket ban of all temporary signs from the public ROW could be challenged as an overbroad regulation of First Amendment rights or on the grounds that it does not serve a compelling state interest. Regardless of whether such challenges would be successful, they could potentially result in protracted litigation.

As the agency responsible for implementing sign regulations, MaineDOT appreciates the committee's consideration of the possibility that the enforcement of this ban on all temporary signs in the ROW could put MaineDOT in jeopardy of attracting litigation.

We would suggest that the committee seeks input from the Office of the Maine Attorney General if it is inclined to make changes to the temporary sign laws.

Thank you for your time, and I would be happy to address any questions the committee might have.

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