



# HOUSE OF REPRESENTATIVES

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### Testimony in support of:

### **LD 1469, "An Act Relating to Firearms Exclusions in Certain Locations"** **Joint Standing Committee on Criminal Justice and Public Safety**

Good afternoon Senator Rosen, Representative Warren, and distinguished members of the Criminal Justice and Public Safety Committee; I am Representative MaryAnne Kinney from Knox, representing 9 towns in Western Waldo County; I am here today to present LD 1469, "An Act Relating to Firearms Exclusions in Certain Locations".

Last July in Tennessee, Senate Bill 1736 passed as amended (I have provided the language from that bill with my testimony). LD 1469 is based on that law. In 2015 the 127<sup>th</sup> Maine Legislature passed LD 652, as amended, allowing for constitutional carry (concealed carry) of firearms in Maine. The Constitution of Maine states in Article I Section 16, "**To keep and bear arms.** Every citizen has a right to keep and bear arms and this right shall never be questioned." The Second Amendment to the United States Constitution states, "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed."

On July 20, 2012 movie goers in Aurora, Colorado were gunned down at the Cinemark Century 16 Theater. 12 people were killed and 70 others were injured. The theater was one of many showing the latest Batman movie but the only theater within 20 minutes of the gunman's apartment that was a "gun-free zone". On August 5, 2012 in Oak Creek, Wisconsin at the Sikh Temple, 6 people were gunned down before the gunman was killed by police. Another "gun-free zone". On July 23, 2015 at the Grand Theater in Lafayette, Louisiana, 3 people were killed and 9 more injured before the gunman killed himself in yet another "gun-free zone". Business owners seem to think that by banning law abiding citizens from carrying guns they will all be safer. This has simply not been the case. Instead they are now targets for criminals who have no respect for the law nor for human life.

When LD 652 went into effect in October 2015, opponents told us that people would just start shooting each other if an argument didn't go their way. As a law abiding citizen, pulling out a gun to solve an argument is not even close to being on my radar. I value being able to defend myself and my family if needed, but to shoot someone because we disagree is ridiculous.

As it is for any law abiding, gun carrying citizen. In contrast, after the law was in place we saw how a law abiding citizen was able to stop an alleged drug dealer from shooting his colleague in the WalMart parking lot right here in Augusta. No one was killed that day despite the fact that guns were present.

While I am not an advocate for people to sue with frivolous lawsuits (like the person who sued McDonald's over hot coffee they spilled in their lap while driving or the person who sued Winnebago because she set the cruise control and went in back to make a sandwich – because they thought it was “auto pilot” and proceeded to crash because no one was driving!) I do believe in our constitutions and our rights to keep and bear arms.

There are a few differences in these two bills (TN law and LD 1469). In Tennessee the law only protects the people with a conceal carry permit. I do not agree that these are the only citizens who should be protected as our right in Maine “shall never be questioned” and so any law abiding citizen who is allowed under the law to possess a firearm should be protected. Many Maine citizens carry everyday and should not have that right taken away. If a business chooses to post their property then they also should ensure their patron's safety. If no sign is posted, they are not liable when the criminal enters their property unless they are found to be willfully negligent in keeping a safe environment for their patrons.

People may argue that if you want to carry then just don't go to these establishments. Although I don't disagree (I usually avoid so-called gun-free zones for my own safety), when grocery stores, and other necessary places people must frequent, are posting these signs, there will be no place to go anymore. It is still illegal to kill someone in cold blood with a gun or other weapon, all I am asking with this legislation is to allow the law-abiding citizen to keep their rights and have the opportunity to defend themselves and others if the need arises.

SENATE BILL 1736

By Gresham

AN ACT to amend Tennessee Code Annotated, Title 39,  
Chapter 17, Part 13, relative to liability for firearm  
exclusion in certain locations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17, Part 13, is amended by  
adding the following as a new section:

(a) It is the intent of this section to balance the right of a handgun carry permit holder to carry a firearm in order to exercise the right of self-defense and the ability of a property owner or entity in charge of the property to exercise control over governmental or private property.

(b) Any person or entity authorized to post property pursuant to § 39-17-1359 who elects, pursuant to that authority, to prohibit the possession of firearms by a person authorized to carry a handgun pursuant to § 39-17-1351, thereby assumes absolute custodial responsibility for the safety and defense of the permit holder while on the posted property and while on any property the permit holder is required to traverse in order to travel to and from the location where the permit holder's firearm is stored.

(c) The responsibility of the person or entity posting for the safety and defense of the permit holder shall extend to the conduct of other invitees, trespassers, employees of the person or entity, vicious animals, wild animals, and defensible man-made and natural hazards.

(d)

(1) Any handgun carry permit holder who is injured, suffers bodily injury or death, incurs economic loss or expense, property damage or any other compensable loss as the result of conduct occurring on property that is posted pursuant to § 39-17-1359, shall have a cause of action against the person or entity posting. In addition to damages, the person shall be entitled to reasonable attorney fees, expert witness costs, and other costs necessary to bring the cause of action.

(2) The statute of limitations for such an action shall be two (2) years from the date of the occurrence giving rise to the damages, loss, or injury.

(e) Any notice or signage that property is posted pursuant to § 39-17-1359 shall also contain language citing this section and stating that any permit holder on the posted property is under the custodial responsibility of the posting person or entity.

(f) To prevail in an action brought under this section, the plaintiff must show by a preponderance of the evidence that:

(1) The plaintiff was authorized to carry a handgun pursuant to § 39-17-1351 at the time of the incident giving rise to the action;

(2) The plaintiff was prohibited from carrying a firearm on the property where the incident occurred because it was posted pursuant to § 39-17-1359; and

(3) The property was not required to be posted by state or federal law but was posted by choice of the defendant.

(g) This section shall be liberally construed to effectuate its purpose.

SECTION 2. This act shall take effect July 1, 2016, the public welfare requiring it.