

The Maine Heritage Policy Center Testimony to Oppose LD 1588

“An Act To Create a Registration Process and Permits for Vacation Rentals”

Senator Bellows, Representative Sylvester and distinguished members of the Committee on Labor and Housing, my name is Adam Crepeau and I serve as a policy analyst at the Maine Heritage Policy Center. Thank you for the opportunity to speak in opposition to LD 1588.

The Maine Heritage Policy Center is opposed to LD 1588 because it would create more red tape for homeowners that want to rent their properties to others by establishing a rental registry and permitting process for vacation rentals. In addition, this bill would infringe on Maine citizens’ Article I protections under the Maine Constitution and Fourth Amendment protections under the United States Constitution.

This bill includes a provision that would allow an employee or designated officer from the Maine Department of Health and Human Services to “enter upon and into the premises of any establishment licensed or permitted...at any reasonable time in order to determine the state of compliance with this chapter and any rules in force pursuant to this chapter.” Because this bill codifies the permitting of vacation rentals similar to the licensing of eating establishments, youth camps and campgrounds, government officials would be allowed to walk into someone’s vacation rental without a warrant. The bill does not delineate owner-occupied and non-owner occupied rentals, thus giving government officials permission to walk into someone’s home without a warrant.

This provision is a blatant violation to individuals’ protections under the Maine and United States Constitutions. The Maine Constitution is clear, “The people shall be secure in their persons, houses, papers and possessions from all unreasonable searches and seizures...”¹ An employee of the Department of Health and Human Services cannot simply walk into a person’s home, permitted vacation rental or not, without a warrant. This bill would expose the Department of Health and Human Services to potential lawsuits if they choose to utilize that provision.

The United States District Court for the Southern District of Ohio found that warrantless administrative inspections (which require a higher threshold than this bill) are a violation of the Fourth Amendment of the United States Constitution if criminal charges are brought as a result of non-compliance.² While the penalties under this bill would result in civil violations, property owners should not be subjected to warrantless searches “at any reasonable time.” The internet and free market are well-equipped to prevent individuals and families from living in unsanitary and dangerous conditions. A simple web search results

¹ <https://www.maine.gov/legis/const/>

² <https://ohioconstitution.org/wp-content/uploads/2018/01/035-Order-on-MSJ-1.pdf>

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in consumer reviews of rental properties, which can aid prospective tenants in making decisions on who to rent from. Therefore, government oversight over vacation rentals is burdensome and unnecessary.

This bill is not only unconstitutional, but it seeks to collect revenue and grow the size of government. The Department of Health and Human Services would be responsible for maintaining a rental registration program that would track ownership, violations, and resolution of violations. This requires them to collect a \$50 permit from vacation rental owners that would go into a special revenue fund. This is an example of government expansion at its worst -- arbitrarily penalizing home sharers and other entrepreneurs to establish a separate revenue stream for the legislature's pet projects. Why must vacation rental owners acquire a permit, and why should the fee be \$50? Are these standards being set arbitrarily, or is there motive aside from collecting revenue from vacation rental owners?

This bill raises serious concerns of constitutionality and creates more red tape for individuals to rent their properties. For those reasons, The Maine Heritage Policy Center urges the committee to vote, "Ought Not to Pass" on LD 1588. Thank you.