

Testimony on LD 436 by Greg Dugal

Maine Innkeepers Association.

Senator Brakey, Representative Gattine and distinguished members of the Joint Committee on Health and Human Services, My name is Greg Dugal and I am here today representing the Maine Innkeepers Association in support of LD 436 as amended by Senator Patrick. We feel that this is a common sense approach to resolving the problem between the licensed community and the short term or vacation rental community. There are no restrictions at all in this bill on weekly or monthly rentals, strictly for overnight rentals. So it is pretty simple, we define overnight lodging as something less than seven days because it is not currently defined. We apply this definition to the exemptions in the definition of lodging place of less than 4 rooms rented and the exception of private homes with less than 6 rooms rented and require licensure for those properties under these thresholds if they engage in overnight lodging. These are all located in Chapter 562: CAMPGROUNDS, RECREATIONAL CAMPS, YOUTH CAMPS AND EATING ESTABLISHMENTS under sub chapter §2491. Definitions. Simply, if you rent for less than 7 days you would need a license.

People ask what the magic is with “less than seven days” and I will gladly tell you that there is none. This bill has been introduced to create dialogue on this subject and could easily look much different when this process is completed. The spread of unlicensed lodging places needs to be stopped, at least the spread in high risk applications and we believe that overnight lodging is where this danger starts.

The State Fire Marshall, when adopting the National Life Safety Code as the Maine Life Safety Code, will tell you that it is illegal to provide lodging for a fee to more than three non-family members in any structure without the proper egress or sprinkling, so depending on the bed configuration and the number of people that could be as few as two rooms, so it is technically already illegal to engage in this activity with more than 2 rooms, but it is important that we include this information in the health inspections portion of statute to give the Health Inspection Program (HIP) the ability to enforce this law. Here is the link to this info on the State Fire Marshal’s web site-

http://www.maine.gov/dps/fmo/plans/bed_breakfast.html It says verbatim on

the site that “**First** determine how many bedrooms will be available for rent. You are allowed to rent to 3 outsiders without needing State approval. At 2 people per bed, that equals 1 bedroom. (The 2nd rental bedroom might include a 4th person.)” Some coming after us will say it is discriminatory to regulate length of stay, but it is a way to get to people who are engaged in this unsafe practice to either stop or do what needs to be done to comply and be licensed. I have spoken with Rich McCarthy, the Assistant Fire Marshal, on this issue on many occasions and he concurs with my prior statements. A family coming to spend the week is in a much different situation than an individual coming to spend the night and potentially arriving when there is no one on site to explain any of the safety features of the rental unit and potentially picking up the key in a mailbox. Our concerns with unlicensed nightly rentals are for the safety of the guest, the sanctity of zoning laws in communities and the unlevel playing field of making someone adhere to strict and cost-prohibitive rules, while the person across the street is just renting rooms without the appropriate insurances and adherence to the laws of the State.

Water testing, Certified Food Protection Manager, Maine Life Safety Code, and potentially ADA compliance are just a few of the many laws, rules and regulations that licensed properties must adhere to as they watch a 12 bedroom unit up the hill from them or a 6 bedroom former bed and breakfast next door to them continue to engage in the activity of providing lodging with no repercussions. Commercial insurances are far more expensive than residential policies, which will probably not cover you if there were ever an issue. If you were to go to the sites to be referenced today, airbnb, homeaway, VRBO, cyberrentals and Craig’s List, just to name a few of the growing number of short term rental sites, you will find many of these properties also engaged in foodservice without any licensing. Something has to be done. Certainly it is about enforcement of existing laws, but it is also about providing HIP with the tools needed to keep visitors to Maine safe. There are dozens of licenses required under the law for professions practiced in Maine and very few have exceptions or exemptions. Just because you have a kitchen and you are a good cook, doesn’t mean you can sell prepared foods to your neighbors. You can’t open a grocery store in your garage. As a matter of fact, you need a license to be an auctioneer, a barber or to sell real estate or insurance. There is no exemption for one sale per year.

I am sure there will be some reference to the fact that we are overreacting and this really is not a problem anywhere else, but there are over 50 state or local jurisdictions looking into ways to regulate short term rentals, so it is not something that Maine innkeepers just dreamed up. A good resource for some of this info is [Neighbors for Overnight Oversight.com](http://NeighborsforOvernightOversight.com). As to taxation of rentals, most rentals are required by law to remit taxes, but LD698 would tax all vacation rentals regardless of length of stay. It is currently in the Taxation committee. There is currently an exemption from taxation for those renting for 14 days or less. Some casual renters collect and remit lodging tax, but many don't. They are obviously not paying licensing fees to the State of Maine either.

Our association has a wonderful working relationship with the Health Inspections Division of the DHHS and a deep respect for the job they do. A couple of years back, some of you may remember that we worked together to voluntarily increase licensing fees to provide them with the necessary inspectors and tools to do their jobs. They will claim that there is no way they can license and inspect the additional properties that could be licensed under this proposal and maybe that is true, but one thing I am certain of is that the status quo is unacceptable. We are all about looking for a fair and legitimate compromise from this legislation, one that certainly licenses more properties than today and to create a fair and equal playing field for those B&B owners, motels, inns and even hotels that are playing by the rules. We stand to assist in any way and will be available at the work session for any follow up information that you need. Thank you for this opportunity to make our case.