

MAINE STATE LEGISLATURE

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SMC
H. of O.

L.D. 937

Date: 4/25/19

Majority

(Filing No. H-167)

ENVIRONMENT AND NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 692, L.D. 937, Bill, "An Act Regarding the Sale and Release or Abandonment of Balloons"

Amend the bill by striking out the title and substituting the following:

'An Act Regarding the Outdoor Release or Abandonment of Balloons'

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 17 MRSA §2263, sub-§2, as amended by PL 1995, c. 667, Pt. A, §37, is further amended to read:

2. Litter. "Litter" means all waste materials including, but not limited to, bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, rubbish, offal, except waste parts or remains resulting from the normal field dressing of lawfully harvested wild game or the lawful use of waste parts or remains of wild game as bait, feathers, except feathers from live birds while being transported, abandoned ice-fishing shacks, old automobiles or parts of automobiles or similar refuse, or disposable packages or containers thrown or deposited as prohibited in this chapter, but not including the wastes of the primary processes of mining, logging, sawmilling, farming or manufacturing. "Litter" includes all waste materials resulting from the outdoor release or abandonment of a balloon.

Sec. 2. 17 MRSA §2263-A, sub-§1, as enacted by PL 2003, c. 452, Pt. I, §32 and affected by Pt. X, §2, is amended to read:

1. Prohibited acts. A person may not throw, drop, deposit, discard, dump or otherwise dispose of litter in any manner or amount:

A. In or on public highway, road, street, alley, public right-of-way or other public lands, except in a container or receptacle or on property that is designated for disposal of garbage and refuse by the State or its agencies or political subdivisions;

B. In freshwater lake, river, stream, tidal or coastal water or on ice over the water. When any litter is thrown or discarded from a watercraft, a person is in violation of this section if that person is:

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1 (1) The operator of the watercraft, unless it is a watercraft being used for the
2 carriage of passengers for hire; or

3 (2) The person actually disposing of the litter.

4 This paragraph does not prohibit persons who fish, lobster or otherwise harvest from
5 the water from returning to the water harvested products, bait and similar materials
6 that naturally originate in the water;

7 C. In or on any private property, unless:

8 (1) Prior consent of the owner has been given; and

9 (2) The litter is not a public nuisance or in violation of any state law or local
10 rule;

11 D. From a trailer or vehicle that is constructed, loaded or uncovered in such a way
12 that the load may drop, sift, leak or otherwise escape. This paragraph applies to
13 vehicles or trailers carrying trash, rubbish or other materials that may be construed as
14 "litter"; or

15 E. From a vehicle. When any litter is thrown or discarded from a vehicle, a person is
16 in violation of this section if that person is:

17 (1) The operator of the vehicle, unless it is a vehicle being used for the carriage
18 of passengers for hire; or

19 (2) The person actually disposing of the litter.

20 It is a violation of this chapter for a person to intentionally release outdoors a balloon that
21 is inflated or filled with a gas that is lighter than air, except that it is not a violation of this
22 chapter for a person to intentionally release outdoors a balloon carrying scientific
23 instrumentation, a balloon used for meteorological observation by a governmental or
24 scientific organization or a hot air balloon that is recovered after launching.

25 In addition to any penalty under section 2264-A, violation of this subsection is a traffic
26 infraction under Title 29-A, chapter 23, subchapter VI 6.

27 A record of a violation of this subsection must be forwarded to the Secretary of State
28 who, in accordance with Title 29-A, section 2607, shall add the violation to the
29 department's point system. The violation is counted in determining an individual's total
30 points under the point system of the Department of the Secretary of State, Bureau of
31 Motor Vehicles.

32 **Sec. 3. 17 MRSA §2264-A**, as amended by PL 2011, c. 208, §4, is further
33 amended to read:

34 **§2264-A. Penalties**

35 Unless otherwise indicated, a person who disposes of litter in violation of this chapter
36 commits a civil violation for which the following fines apply.

37 **1. Disposal of 15 pounds or less or 27 cubic feet or less of litter; intentional**
38 **release of 10 or fewer balloons.** A person who disposes of 15 pounds or less or 27 cubic
39 feet or less of litter or intentionally releases 10 or fewer balloons at one time in violation

1 of this chapter commits a civil violation for which a fine of not less than \$100 and not
2 more than \$500 may be adjudged.

3 **1-A. Disposal of 15 pounds or less or 27 cubic feet or less of litter; intentional**
4 **release of 10 or fewer balloons; subsequent offenses.** A person who violates
5 subsection 1 after having previously violated subsection 1 commits a civil violation for
6 which a fine of not less than \$500 and not more than \$1,000 may be adjudged.

7 **2. Disposal of more than 15 pounds or more than 27 cubic feet of litter;**
8 **intentional release of more than 10 balloons.** A person who disposes of more than 15
9 pounds or more than 27 cubic feet of litter or intentionally releases more than 10 balloons
10 at one time in violation of this chapter commits a civil violation for which the court:

11 A. Shall impose a fine of not less than \$500;

12 B. Shall require the person to pay a party sustaining damages arising out of a
13 violation of this subsection treble the actual damages or \$200, whichever amount is
14 greater, plus the injured party's court costs and attorney's fees if action results in a
15 civil proceeding;

16 C. Shall require the person to perform not less than 100 hours of public service
17 relating to the removal of litter or to the restoration of an area polluted by litter
18 disposed of in violation of this section. The court shall consult with the
19 Commissioner of Inland Fisheries and Wildlife to determine if there is an opportunity
20 for public service that may improve landowner and sportsman relations;

21 D. When practical, shall require the person to remove the litter dumped in violation
22 of this subsection;

23 E. May suspend the person's motor vehicle operator's license for a period of not less
24 than 30 days or more than one year, except as provided in paragraph F.
25 Notwithstanding paragraph F, the court shall suspend all licenses and permits issued
26 under Title 12, Part 13, subpart 4 and recreational vehicle registrations and
27 certificates issued to that person under Title 12, Part 13, subpart 6 for a period of not
28 less than 30 days or more than one year; and

29 F. May suspend any license, permit, registration or certification issued by a state
30 agency or municipality to the person. A professional license, permit, registration or
31 certification required for that person to operate or establish a business or necessary
32 for the person's primary source of employment may not be suspended unless the
33 items dumped were related to the person's profession or occupation.

34 **2-A. Disposal of more than 15 pounds or more than 27 cubic feet of litter;**
35 **intentional release of more than 10 balloons; subsequent offenses.** A person who
36 violates subsection 2 after having previously violated subsection 2 commits a civil
37 violation for which the penalty provisions under subsection 2 apply except for subsection
38 2, paragraph A, and a fine of not less than \$2,000 must be adjudged.

39 **3. Disposal of more than 500 pounds or more than 100 cubic feet of litter for a**
40 **commercial purpose.** A person who disposes of more than 500 pounds or more than 100
41 cubic feet of litter for a commercial purpose is subject to the penalties under Title 38,
42 section 349.'

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SUMMARY

This amendment, which is the majority report of the committee, changes the title and replaces the bill. It amends the State's litter law to clarify that waste materials resulting from the outdoor release or abandonment of a balloon constitute litter under that law. The amendment also provides that it is a violation of the litter law for a person to intentionally release outdoors a balloon that is inflated or filled with a gas that is lighter than air, except for a balloon carrying scientific instrumentation, a balloon used for meteorological observation by a governmental or scientific organization or a hot air balloon that is recovered after launching. It applies a civil penalty of not less than \$100 and not more than \$500 for the illegal intentional release of up to 10 balloons and a civil penalty of not less than \$500 for the illegal intentional release of more than 10 balloons.

FISCAL NOTE REQUIRED

(See attached)



Approved: 04/09/19 *MAC*

129th MAINE LEGISLATURE

LD 937

LR 265(02)

An Act Regarding the Sale and Release or Abandonment of Balloons

Fiscal Note for Bill as Amended by Committee Amendment *A. (H-167)*

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund
Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional fine revenue will increase General Fund and dedicated revenue by minor amounts.