

MAINE STATE LEGISLATURE

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**STATE OF MAINE
127th LEGISLATURE
FIRST REGULAR SESSION**

**REPORT OF THE STATE FIRE MARSHAL'S OFFICE ON THE SALE and USE OF CONSUMER
FIREWORKS IN MAINE FOR 2013**

Joint Standing Committee on Criminal Justice and Public Safety

MARCH 2014

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Committee on Criminal Justice and Public Safety
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Office of the Maine State Fire Marshal**

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EXECUTIVE SUMMARY

The use, possession or sale of consumer fireworks became legal with the passage of Chapter 416, LD 83 “An Act to Legalize the Sale, Possession and Use of Fireworks” during the first session of the 125th Maine Legislature. The law took effect on January 1, 2012.

In 2013 the Office of State Fire Marshal (FMO) proposed bill L.D. 337, in conjunction with several bill sponsors, which would have required health care practitioners report to the FMO certain burn injuries and wounds. The bill (Appendix A) was submitted for consideration because the FMO was not receiving good data on the number of fireworks-related burns and injuries that were being reported by Maine hospitals and clinics. The House and Senate voted “Ought Not to Pass” on the bill on March 20, 2013.

LICENSING

In 2013, seventeen stores were successfully licensed for a total of \$32,500.00. This includes one new store that was licensed in 2013.

TOWN ORDINANCES

As required in statute, municipalities choosing to restrict or prohibit the sale and or use of consumer fireworks, or those permitting the sale of consumer fireworks must provide the FMO with a copy of the ordinance. At the conclusion of 2013, the FMO had received a total of 70 municipal ordinances, which was an increase of 14 ordinances from 2012. The ordinance documents are available from the FMO website at this webpage: <http://www.maine.gov/dps/fmo/fireworks/ordinances.htm>.

CONSUMER FIREWORKS-RELATED INJURIES AND FIRES

The FMO’s primary concern regarding the use of consumer fireworks was the potential for injury and fire resulting from the misuse of these products. The recognition that better injury data was needed drove the submission of bill L.D. 337, which ultimately failed in the legislature. Voluntary injury reports were created in 2012 (Appendix B) to capture fireworks injury data from hospitals and clinics. However, only seven injury reports were sent to the FMO in 2013, which was reduced from the nineteen reports submitted in 2012. The FMO investigators conducted investigations on twelve injury or fire-related incidents in 2013, and some of these incidents may have been included in the seven injury reports that were sent to the office. As a result of potential duplication of injury reporting, and uncertainty as to if the forms were being used consistently, the reported number of injuries is not considered by the FMO to be accurate injury data.

There were a total of eight fires reported by Maine’s fire departments to be caused by fireworks in 2013.

Appendix A: LD 337, HP 0242, An Act To Require That Burn Injuries and Wounds Be Reported to the Office of the State Fire Marshal



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 337

H.P. 242

House of Representatives, February 12, 2013

**An Act To Require That Burn Injuries and Wounds Be Reported to
the Office of the State Fire Marshal**

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative LAJOIE of Lewiston.
Cosponsored by Senator DUTREMBLE of York and
Representatives: CRAY of Palmyra, DION of Portland, GILBERT of Jay, KAENRATH of
South Portland, MAKER of Calais, SHAW of Standish, TIMBERLAKE of Turner, WERTS of
Auburn.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §1725** is enacted to read:

3 **§1725. Report to the State Fire Marshal**

4 A health care practitioner shall report to the State Fire Marshal burn injuries and
5 wounds as provided in this section.

6 **1. Definitions.** As used in this section, unless the context indicates otherwise, the
7 following terms have the following meanings.

8 A. "Health care practitioner" means a physician or a person certified, registered or
9 licensed in the healing arts, including but not limited to a nurse, podiatrist,
10 optometrist, chiropractor, physical therapist, dentist, counselor, psychologist,
11 physician assistant or veterinarian.

12 B. "Office" means the Office of the State Fire Marshal as established in Title 25,
13 section 2396.

14 C. "Reportable burn injury" means a burn injury or wound in which the victim has
15 sustained:

16 (1) Second-degree or 3rd-degree burns to 5% of the body;

17 (2) Burns to the upper respiratory tract or sustained laryngeal edema from
18 inhaling superheated air; or

19 (3) Burns or wounds that may result in the death of the victim.

20 **2. Requirement.** Within 72 hours of being called upon to treat, dress or bandage a
21 reportable burn injury, a health care practitioner shall notify the office. The report must
22 be made in the manner and on the forms required by the office.

23 **3. Privileged or confidential communications and health care information.** The
24 health care professional-patient privilege under the Maine Rules of Evidence, Rule 503 is
25 abrogated for the purposes of reporting under subsection 2. A report made under
26 subsection 2 is considered to be required by statute for the purposes of section 1711-C,
27 subsection 6, paragraph F-1.

28 **4. Immunity from liability.** A health care practitioner who reports in good faith
29 under subsection 2 is immune from any criminal or civil liability for the act of reporting.
30 In a proceeding regarding immunity from liability, there is a rebuttable presumption that a
31 report made under subsection 2 is made in good faith.

32 **5. Rules.** The office shall adopt rules to implement this section. Rules adopted
33 pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375,
34 subchapter 2-A.

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SUMMARY

This bill establishes a requirement that health care practitioners report to the Office of the State Fire Marshal within the Department of Public Safety certain burn injuries and wounds. The bill authorizes the Office of the State Fire Marshal to adopt routine technical rules as required for reporting. The bill provides criminal and civil immunity for persons who report in good faith, abrogates the health care practitioner-patient privilege for the purposes of reporting, provides a rebuttable presumption of good faith and clarifies that a report made pursuant to the law is an exception to certain confidentiality requirements for the purposes of the Maine Revised Statutes, Title 22, section 1711-C, subsection 6, paragraph F-1.

Appendix B: Injury Reporting Forms

**MAINE FIRE MARSHAL'S OFFICE
CONSUMER FIREWORKS INJURY REPORT**



The Office of the Fire Marshal would greatly appreciate the assistance of Maine's medical community in tracking consumer fireworks related injuries. The purpose of reporting these injuries is to assist the Fire Marshal in developing any necessary statutory, rule, or policy changes essential to minimizing the frequency of fireworks injuries in Maine. For more information call (207) 626-3873. Thank you.

Demographic Information:

Hospital/Clinic Name: _____

Date of Injury (mo/day/year): _____

Municipality in which the injury occurred: _____

Age

0 – 4 5 – 14 15 – 20 21 - 25 26 – 44 45 and older

Type of Device:

- Hand Held (sparkler, firecracker, roman candle, smoke bomb, ground spinner)
- Display (stationary mortar, wheel, missile rocket, fountain)
- Other _____

Reason for Injury:

- Bystander (not involved with igniting device)
- User error (mishandled, relit fuse, device not set up correctly, throwing, etc)
- Device Malfunctioned (errant flight pattern, uncontained explosion)
- Other _____

Severity of Injury (circle one only)

1. No injury
2. Minor (1st degree burn, minor cut (no stitches), bruising)
3. Moderate (2nd degree burn, laceration (stitches), broken bone)
4. Significant injury (3rd degree burn, partial or total loss of digit, hearing or sight)
5. Fatality

Body Part Injured (check one):

- Head/face
- Extremity
- Torso

Comments

MAIL/FAX COMPLETED FORMS TO: Richard E. Taylor, Senior Research and Planning Analyst
Office of the Maine State Fire Marshal
52 SHS
Augusta, Maine 04333-0052
Phone: (207) 626-3873 Fax: (207) 287-6251
Richard.e.taylor@maine.gov

FOR AN ONLINE POSTING OF THIS FORM AND MORE INFORMATION ON CONSUMER FIREWORKS IN MAINE SEE: <http://www.maine.gov/dps/fmo/fireworks/index.html>

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CONSUMER FIREWORKS INJURY REPORT**



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Demographic Information:

Hospital/Clinic Name:

Date of Injury (mo/day/year):

| Type of Device: | Reason for Injury: |
|--|--|
| <input type="checkbox"/> Hand Held (sparkler, firecracker, roman Candle, smoke bomb, ground spinner) | <input type="checkbox"/> Bystander (not involved with igniting device) |
| <input type="checkbox"/> Display (stationary mortar, wheel, missile rocket, fountain) | <input type="checkbox"/> User error (mishandled, relit fuse, device not set up correctly, throwing, etc) |
| <input type="checkbox"/> Other _____ _____ | <input type="checkbox"/> Device Malfunctioned (errant flight pattern, uncontained explosion) |
| | <input type="checkbox"/> Other |

| Severity of Injury (circle one only) | Body Part Injured (check one): |
|---|------------------------------------|
| 1. No injury | <input type="checkbox"/> Head/face |
| 2. Minor (1 st degree burn, minor cut (no stitches), bruising) | <input type="checkbox"/> Extremity |
| 3. Moderate (2 nd degree burn, laceration (stitches), broken bone) | <input type="checkbox"/> Torso |
| 4. Significant injury (3 rd degree burn, partial or total loss of digit, hearing or sight) | |
| 5. Fatality | |

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