

# MAINE STATE LEGISLATURE

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R. of S.

L.D. 2267

(Filing No. S- 619)

STATE OF MAINE  
SENATE  
114TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 891, L.D. 2267, Bill, "An Act to Strengthen the Laws Regarding the Casual Disposal of Solid Waste"

Amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 15 MRSA §5821, sub-§4-A is enacted to read:

4-A. Conveyances used in violation of litter laws. All conveyances, including aircraft, watercraft, vehicles, vessels, containers or cranes that are used, or attempted to be used, to dump more than 500 pounds or more than 100 cubic feet of litter in violation of Title 17, section 2264;'

Further amend the bill in section 3 in that part designated "~~§2264.~~" by striking out all of subsection 2 and inserting in its place the following:

'2. Waters. In any fresh water lake, river, stream, tidal or coastal water or on ice over the water. When any litter is thrown or discarded from a watercraft, both the operator of the watercraft, unless it is a watercraft being used for the carriage of passengers for hire, and the person actually disposing of the litter are in violation of this section. This subsection does not prohibit persons who fish, lobster or otherwise harvest from the water from returning to the water harvested products, bait and similar materials that naturally originate in the water;'

Further amend the bill in section 3 in that part designated "~~§2264.~~" by striking out all of subsection 5 and inserting in its place the following:

'5. Vehicle operator. From a vehicle. When any litter is thrown or discarded from a vehicle, both the operator of the vehicle, unless it is a vehicle being used for the carriage of passengers for hire, and the person actually disposing of the litter are in violation of this section. The violation is punishable as a traffic infraction under Title 29, chapter 19. This penalty is in addition to any penalty under section 2264-A.

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2 A record of a violation of this subsection must be forwarded to  
4 the Secretary of State who, in accordance with Title 29, section  
6 2304, shall add the violation to the department's point system  
and the violation is counted in determining an individual's total  
points under the point system of the Division of Motor Vehicles.'

8 Further amend the bill in section 3 in that part designated  
10 "~~§2264.~~" by inserting at the end the following:

12 'For the purposes of this chapter, if a person dumps litter  
14 from a commercial vehicle, that person is presumed to have dumped  
the litter for a commercial purpose.'

16 Further amend the bill in section 4 in that part designated  
18 "~~2264-A.~~" in the first line (page 2, line 51 in L.D.) by striking  
out the following: "~~2264-A.~~" and inserting in its place the  
following: '~~§2264-A.~~'

20 Further amend the bill in section 4 in that part designated  
22 "~~2264-A.~~" by striking out all of subsections 1 to 3 and inserting  
in their place the following:

24 '1. Disposal of less than 15 pounds or less than 27 cubic  
26 feet of litter. A person who disposes of less than 15 pounds or  
less than 27 cubic feet of litter is subject to a forfeiture of  
28 not more than \$200 nor less than \$25 for the first violation and  
a forfeiture of not more than \$500 nor less than \$100 for a  
subsequent violation.

30  
32 2. Disposal of more than 15 pounds or more than 27 cubic  
34 feet of litter. A person who disposes of more than 15 pounds or  
more than 27 cubic feet of litter is subject to a forfeiture of  
36 not more than \$500 nor less than \$200 for the first violation and  
not more than \$1,000 nor less than \$500 for a subsequent  
violation.

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

44 Further amend the bill in section 4 in that part designated  
46 "~~§2264-B.~~" in subsection 4 in the last line (page 3, line 41 in  
L.D.) by striking out the following: "~~;~~" and inserting in its  
48 place the following: '~~;~~ and'

50 Further amend the bill in section 4 in that part designated  
"~~§2264-B.~~" in subsection 5 in the last line (page 3, line 46 in

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L.D.) by striking out the following: "; and" and inserting in its place the following: '1'

Further amend the bill in section 4 in that part designated "§2264-B." by striking out all of subsection 6.

Further amend the bill in section 4 by striking out all of that part designated "§2264-C." and inserting in its place the following:

**§2264-C. Forfeiture**

All conveyances, including aircraft, watercraft, vehicles, vessels, containers or cranes that are used, or attempted to be used, to dump more than 1,000 pounds or more than 100 cubic feet of litter in violation of section 2264 are subject to forfeiture as provided in Title 15, chapter 517.

Further amend the bill by inserting before the emergency clause the following:

**'Sec. 8. 38 MRSA §349, sub-§1,** as amended by PL 1989, c. 282, §2, is further amended to read:

**1. Criminal penalties.** Any person who violates any provisions of the laws administered by the department, including, without limitation, a violation of the terms or conditions of any order, rule, license, permit, approval or decision of the board or commissioner, or who disposes of more than 500 pounds or more than 100 cubic feet of litter for a commercial purpose, in violation of Title 17, section 2264, is guilty of a Class E crime and may be punished accordingly, except notwithstanding Title 17-A, section 1301, subsection 1, paragraph C, or subsection 3, paragraph E, the fine for such a violation shall may not be less than \$100 nor more than \$25,000 for each day of the violation.

This subsection does not apply to actions subject to the criminal penalties set forth in section 1319-T.

**Sec. 9. 38 MRSA §349, sub-§2,** as amended by PL 1989, c. 282, §3, is further amended to read:

**2. Civil penalties.** Any person who violates any provision of the laws administered by the department, including, without limitation, a violation of the terms or conditions of any order, rule, license, permit, approval or decision of the board or commissioner, shall-be or who disposes of more than 500 pounds or more than 100 cubic feet of litter for a commercial purpose, in violation of Title 17, section 2264, is subject to a civil penalty, payable to the State, of not less than \$100 nor more than \$10,000 for each day of that violation or, if the violation

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relates to hazardous waste, of not more than \$25,000 for each day of the violation.'

Further amend the bill by renumbering the sections to read consecutively.

Further amend the bill by inserting before the statement of fact the following:

**FISCAL NOTE**

Enactment of this bill would result in additional costs to the Department of Public Safety associated with the handling and disposition of forfeited conveyances, as well as the enforcement of this legislation. The Department of Public Safety can absorb these costs utilizing existing budgeted resources.

Also, any additional costs associated with the Judicial Department, the Division of Motor Vehicles and the Department of the Attorney General can be absorbed by the respective departments utilizing existing budgeted resources.'

**STATEMENT OF FACT**

This amendment strikes out provisions of the bill regarding procedures for forfeiture of certain conveyances used to dump litter in violation of the litter laws. Under the amendment, existing adjudicatory procedures for forfeiture, the Maine Revised Statutes, Title 15, chapter 517, are to be used in cases of forfeiture of conveyances used or attempted to be used to dump more than 1,000 pounds or more than 100 cubic feet of litter in violation of Title 17, section 2264.

The amendment clarifies provisions in the bill making operators of watercraft and vehicles, other than those used to carry passengers for hire, whose passengers unlawfully dispose of litter, liable in addition to the passenger who actually disposed of the litter.

The amendment also clarifies provisions in the bill regarding penalties for violation of the litter laws. The amendment establishes a minimum penalty of \$200 and a maximum penalty of \$500 for unlawfully disposing of more than 15 pounds or more than 27 cubic feet of litter. The amendment provides for a minimum penalty of \$500 and a maximum penalty of \$1,000 for a 2nd or subsequent violation of this kind. The amendment provides that persons who dispose of more than 500 pounds or more than 100 cubic feet of litter in violation of Title 17, section 2264, are subject to penalties under Title 38, section 349, and thus are subject to prosecution for a Class E crime and civil penalties.