

MAINE STATE LEGISLATURE

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CRIMINAL JUSTICE

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 241, L.D. 305, Bill, "An Act to Prohibit the Inhaling of Toxic Vapors for Effect"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 22 MRSA §2383-C is enacted to read:

§2383-C. Unlawful use or possession of inhalants

1. Prohibited acts. A person may not intentionally or knowingly:

A. Inhale, ingest, apply or smell the gases, vapors or fumes of any gas, hazardous inhalant, substance containing a volatile chemical or substance containing a chemical material capable of releasing toxic vapors or fumes for the purpose of causing intoxication, euphoria, inebriation, excitement, stupefaction or the dulling of that person's brain or nervous system; or

B. Possess any gas, hazardous inhalant, substance containing a volatile chemical or substance containing a chemical material capable of releasing toxic vapors with the intent to violate paragraph A.

2. Exclusions. Nothing in this section applies to the inhalation of anesthesia for medical or dental purposes or the inhalation of the vapors or fumes of an alcoholic beverage, the sale and consumption of which is authorized by law.

COMMITTEE AMENDMENT

3. Presumption regarding violations. Proof that a person intentionally or knowingly inhaled, ingested, applied or used a substance in a manner contrary to the directions for use, cautions or warnings on a label of a container of the substance gives rise to a presumption that the person violated subsection 1.

4. Presumption regarding ingredients. For the purposes of this section, it is presumed that the ingredients in a container are, in fact, the ingredients listed on a label of the container or the ingredients listed for that substance in databases maintained or relied upon by a poison control center certified by a national association of poison control centers.

5. Penalties. A person who violates this section commits a civil violation for which a fine, which may not be suspended, must be imposed as follows:

A. Not less than \$100 or more than \$300 for the first offense;

B. Not less than \$200 or more than \$500 for the 2nd offense; and

C. Five hundred dollars for the 3rd and each subsequent offense.

6. Additional orders. In addition to the civil fines required by subsection 5, the judge may order the person to perform specified work for the benefit of the State, the municipality or other public entity or charitable institution or to undergo evaluation, education or treatment with a licensed social worker or a licensed substance abuse counselor.'

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may increase General Fund revenue by minor amounts.'

SUMMARY

This amendment makes the following changes.

COMMITTEE AMENDMENT "A" to H.P. 241, L.D. 305

1. It moves the prohibition against toxic vapor inhalation to the Maine Revised Statutes, Title 22, chapter 558.

2. It specifies that no person may intentionally or knowingly inhale, ingest, apply or smell a toxic substance for the purpose of causing intoxication, euphoria, inebriation, excitement, stupefaction or the dulling of the brain or nervous system and that no person may intentionally or knowingly possess a toxic substance with the intent to inhale, ingest, apply or smell.

3. It creates the presumption that a person violated the section if there is proof that the person intentionally or knowingly inhaled, ingested, applied or used a substance in a manner contrary to the directions for use, cautions or warnings on the label of the substance container.

4. It creates the presumption that the ingredients in a container are those listed on a label on the container or those listed for that substance in databases maintained or relied upon by poison control centers certified by a national association of poison control centers.

5. It makes the inhalation of toxic vapors a civil offense, rather than a Class E crime. The mandatory fines are \$100 to \$300 for the first offense, \$200 to \$500 for the 2nd offense and \$500 for the 3rd and each subsequent offense.

6. It permits the judge to require an offender to perform public service or to undergo evaluation, education or treatment with a licensed social worker or a licensed substance abuse counselor.

7. It adds a fiscal note to the bill.

COMMITTEE AMENDMENT