

MAINE STATE LEGISLATURE

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DATE: 5-7-97

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MAJORITY
NATURAL RESOURCES

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

COMMITTEE AMENDMENT "A" to H.P. 703, L.D. 967, Bill, "An Act to Expand Recycling through Reduced Burning"

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

'An Act to Clarify the Laws Relating to Backyard Burning'

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

Sec. 1. 12 MRSA §9321, sub-§1, ¶¶G and H, as enacted by PL 1979, c. 545, §3, are amended to read:

G. The presence or availability of sufficient force and equipment to control the burning; and

H. Experience and capability of the permittee in the safe use and control of the proposed burning; and

Sec. 2. 12 MRSA §9321, sub-§1, ¶I is enacted to read:

I. In issuing a permit under section 9325, subsection 1, paragraph E, any prior convictions for violating that paragraph or section 9324, subsection 7.

Sec. 3. 12 MRSA §9321-A, sub-§1, as enacted by PL 1987, c. 618, §2, is amended to read:

COMMITTEE AMENDMENT

1. Possession and production of permit in organized territory. Any person, firm or corporation which that engages in out-of-door burning in any municipality, plantation or village corporation as permitted by this article shall possess the permit at the scene of the burning and shall produce the permit on the demand of authorized persons, including fire chiefs, town forest fire wardens or their designated agents, state forest rangers, municipal code enforcement officers and any law enforcement officer as defined in Title 17-A.

Sec. 4. 12 MRSA §9324, sub-§6, as enacted by PL 1983, c. 504, §4, is repealed.

Sec. 5. 12 MRSA §9324, sub-§7 is enacted to read:

7. Trash. Out-of-door burning of highly combustible trash is prohibited where municipal trash collection service is available and will accept those materials. Out-of-door burning of plastics, rubber, styrofoam, metals, food wastes or chemicals is prohibited in all areas of the State.

For purposes of this subsection, the following terms have the following meanings.

A. "Highly combustible trash" means wooden boxes or other wood material, paper and cardboard.

B. "Municipal trash collection service" means any curbside trash collection service that is operated or contracted for by the municipality or that is required by municipal ordinance.

Sec. 6. 12 MRSA §9325, sub-§1, ¶E, as enacted by PL 1991, c. 36, §4, is repealed and the following enacted in its place:

E. Residential out-of-door burning of highly combustible trash as defined in section 9324, subsection 7 in open or enclosed incinerators where municipal trash collection service as defined in section 9324, subsection 7 is not available or will not accept those materials. The incinerator must have been inspected and approved by a municipal fire chief, town forest fire warden or forest ranger using minimum criteria established by the director for safe operation;

Sec. 7. Task Force to Study Backyard Burning. The Task Force to Study Backyard Burning, referred to in this section as the "task force," is established.

1. **Membership.** The task force consists of 7 members, as follows:

A. Four members of the Legislature, appointed by the President of the Senate and the Speaker of the House of Representatives with the recommendation of the Chairs of the Joint Standing Committee on Natural Resources. The President and the Speaker shall make their appointments no later than 15 days following the effective date of this Act, and shall notify the Executive Director of the Legislative Council upon making their appointments;

B. The Commissioner of Environmental Protection or the commissioner's designee;

C. The Director of the Bureau of Forestry, within the Department of Conservation, or the director's designee; and

D. The Director of the State Planning Office, within the Executive Department, or the director's designee.

2. **First meeting.** When the appointment of all members is complete, the Chair of the Legislative Council shall call and convene the first meeting of the task force. At the first meeting, the task force shall select a chair from among its legislative members.

3. **Duties.** In conducting the study, the task force shall examine the following issues:

A. The extent of backyard burning in the State and a comparison of the extent of and issues involved with backyard burning in urban, suburban and rural areas;

B. The impact of cultural influences and economic incentives on backyard burning;

C. The impact of backyard burning on local air quality and the level of human exposure to pollutants. Existing data may be used to examine these issues;

D. The state solid waste management and recycling infrastructure and its impact on backyard burning, including existing disincentives to recycle or dispose of trash properly;

E. Alternative solid waste management strategies that may reduce backyard burning;

F. Where backyard burning should be prohibited or restricted; and

G. The impact of prohibiting backyard burning on municipalities, including island communities, and on the costs of solid waste management.

In examining these issues, the task force may analyze the results of a survey distributed with new out-of-door burning permits.

4. Report and recommendations. The task force shall submit a report of its findings and recommendations with any implementing legislation to the Joint Standing Committee on Natural Resources no later than January 15, 1998. The report must include specific recommendations on whether to prohibit or further restrict backyard burning, with an explanation of the implications of such action.

5. Staff assistance. The task force shall request staffing assistance from the Legislative Council.

6. Compensation. The members of the task force who are Legislators are entitled to reimbursement for expenses upon application to the Executive Director of the Legislative Council. Members are not entitled to receive legislative per diem for attendance at task force meetings.

Sec. 8. Educational outreach. The Department of Environmental Protection, in consultation with the Executive Department, State Planning Office and the Department of Conservation, Bureau of Forestry, shall undertake an educational outreach program to inform the public about the health and environmental effects of backyard burning. The Department of Environmental Protection shall report to the Joint Standing Committee on Natural Resources no later than January 15, 1998 with an update on the educational outreach program.

Sec. 9. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1997-98

LEGISLATURE

Task Force to Study Backyard Burning

All Other \$1,300

Provides funds for the expenses of

legislative members and miscellaneous costs, including printing of the Task Force to Study Backyard Burning.'

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

FISCAL NOTE

1997-98 1998-99

APPROPRIATIONS/ALLOCATIONS

General Fund \$1,300

The Legislature will require a General Fund appropriation of \$1,300 in fiscal year 1997-98 for the expenses of legislative members and miscellaneous costs, including printing, of the Task Force to Study Backyard Burning. The additional costs associated with providing staff assistance to the task force can be absorbed by the Legislature utilizing existing budgeted resources.

The Department of Environmental Protection will incur some minor additional costs to administer certain reduced burning requirements and to provide an educational outreach program. These costs can be absorbed within the department's existing budgeted resources.

This bill may increase prosecutions for Class E crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$83.78 per day per prisoner. These costs are not reimbursed by the State. The number of prosecutions that may result in a jail sentence and the resulting costs to the county jail system are expected to be insignificant.

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.

The additional costs associated with serving as members of the Task Force to Study Backyard Burning can be absorbed by the State Planning Office, the Department of Conservation and the Department of Environmental Protection utilizing existing budgeted resources.'

SUMMARY

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This amendment, which is the majority report of the Joint Standing Committee on Natural Resources, replaces the bill. It authorizes the Director of the Bureau of Forestry in the Department of Conservation to consider any prior convictions for violating the laws relating to out-of-door burning of trash. It also includes municipal code enforcement officers in the list of persons authorized to demand the production of a permit by anyone engaged in out-of-door burning.

The amendment clarifies that the burning of highly combustible trash is prohibited where curbside trash collection service that is operated or contracted by the municipality or that is required by municipal ordinance is available and will accept those materials and that the burning of certain other types of trash is prohibited in all areas. It also clarifies that a permit is required for residential open burning of highly combustible trash in open or enclosed incinerators in municipalities where municipal curbside trash collection service is not available or will not accept those materials.

The amendment also establishes the Task Force to Study Backyard Burning and requires the task force to submit a report to the Joint Standing Committee on Natural Resources no later than January 15, 1998. Finally, the amendment requires the Department of Environmental Protection, in consultation with the Executive Department, State Planning Office and the Department of Conservation, Bureau of Forestry, to undertake an educational outreach program to inform the public about the health and environmental effects of backyard burning. The amendment also adds a fiscal note to the bill.