

MAINE STATE LEGISLATURE

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CRIMINAL JUSTICE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1760, L.D. 2466, Bill, "An Act to Promote the Safe Conduct of Fireworks Displays in the State of Maine"

Amend the bill in section 2 in that part designated "§221-A." in subsection 5 in the last line (page 2, line 11 in L.D.) by striking out the following: "or special effects display"

Further amend the bill in section 2 in that part designated "§221-A." by striking out all of subsection 6.

Further amend the bill in section 2 in that part designated "§221-A." in subsection 7 in the last line (page 2, line 20 in L.D.) by striking out the following: "or special effects display"

Further amend the bill in section 2 in that part designated "§221-A." by renumbering the subsections to read consecutively.

Further amend the bill by inserting after section 3 the following:

'Sec. 4. 8 MRSA §226, as enacted by PL 1985, c. 23, §2, is repealed.'

Further amend the bill by striking out all of section 5 and inserting in its place the following:

'Sec. 5. 8 MRSA §§227-A, 227-B and 227-C are enacted to read:

2 **§227-A. Requirements for obtaining permit**

4 **1. Permits; requirements.** A person may not conduct a
6 display without a permit. The commissioner shall issue a permit
to possess and conduct a fireworks display to an applicant who:

8 A. Applies in writing to the commissioner for a permit at
least 10 days in advance of the proposed display;

10 B. Applies on forms furnished by the department. An
12 application for a permit must include:

14 (1) A certificate of public liability insurance in the
16 amount of \$500,000 to cover loss, damage or injuries to
persons or property that might result from the display;
18 and

20 (2) A site plan for the proposed display depicting a
diagram of the grounds or facilities at which or in
22 which the display will be held. The diagram must show
points of discharge, fallout areas, any buildings or
24 other structures in proximity to the display site and
the location of any audience that may be present.
26 Distances of and distances between the points of
discharge and any buildings or structures must be
28 stated on the diagram; and

30 C. Submits with the application fees set out in subsection
3.

32 **2. Inspection.** Upon receipt of a complete application, the
34 department shall conduct an inspection of the proposed display
site to determine the hazard posed by the display.

36 **3. Fees.** The fee for a permit is \$30 per display and the
38 fee for a site inspection is \$15.

40 **§227-B. Regulation restricted; exception**

42 **1. Regulation restricted.** Except as provided in subsection
2, a political subdivision of the State, including, but not
44 limited to, a municipality, county, township or village
corporation, may not adopt an order, ordinance, rule or
46 regulation concerning the issuance of permits under section 227-A.

48 **2. Exception.** This section does not prohibit an order,
ordinance, rule or regulation of a political subdivision that,
with the exception of appropriate penalty provisions, conforms

exactly with an applicable provision of state law or that regulates the issuance of these permits within a jurisdiction.

§227-C. Denial, suspension or revocation of permit

The commissioner may, after a hearing in conformance with the applicable provisions of the Maine Administrative Procedure Act, suspend or revoke a permit issued under this chapter. The following are grounds for denial, suspension or revocation of a permit:

1. Incomplete. The application or a document filed with the application is incomplete;

2. Misstatement. The application or a document filed with the application contains a material misstatement;

3. Site inspection. The site fails to pass an inspection conducted by the department pursuant to section 227-A; or

4. Failure to employ or use fireworks technician. The applicant fails to use a licensed fireworks technician to conduct the display.'

Further amend the bill by striking out all of section 11 and inserting in its place the following:

'Sec. 11. 8 MRSA §§231 to 236 are enacted to read:

§231. Fireworks technician license qualifications

A person may not act as a fireworks technician unless the person meets the qualifications specified in this section and obtains a license. The person must:

1. Age. Be at least 21 years of age;

2. Citizenship. Be a citizen or resident alien of the United States;

3. Experience. Have experience and training working under the direction of a fireworks technician during at least 5 displays, or comparable experience as determined by the department;

4. Character. Be of good moral character as determined by the department and not have been convicted of a crime that is punishable by a maximum term of imprisonment equal to or exceeding one year. In making the determination of good moral

2 character, the commissioner shall consider matters recorded
3 within the previous 5 years, including, but not limited to:

4 A. Records of incidents of abuse by the applicant of family
5 or household members provided pursuant to Title 19-A,
6 section 4012, subsection 1;

8 B. Records provided by the Department of Human Services
9 regarding the failure of the applicant to meet child or
10 family support obligations;

12 C. Records of 3 or more convictions of the applicant for
13 Class D or Class E crimes;

14 D. Records of 3 or more civil violations by the applicant;
15 and

18 E. Records that the applicant has engaged in recklessness
19 or negligence that endangered the safety of others;

20 5. Examination. Successfully complete a written
21 examination administered by the department encompassing fireworks
22 and the conduct of displays; and

24 6. Application. Submit an application to the department
25 that contains:

28 A. The applicant's full name, full current address, social
29 security number and date of birth; and

30 B. A statement granting the commissioner authority to check
31 the criminal records of the applicant.

34 **§232. Fees**

36 All license and permit fees received pursuant to this
37 chapter by the department must be used for carrying out this
38 chapter. Any balance of these fees may not lapse but must be
39 carried forward as a continuing account to be expended for the
40 same purpose in the following fiscal years.

42 1. Fee for fireworks technician. The fee for a fireworks
43 technician license is \$25.

44 **§233. Renewal of license**

46 Each fireworks technician license is valid for a term of one
47 year. Unless revoked or suspended, the license is renewable
48 annually.

50

§234. Denial; suspension; revocation; grounds

2 The commissioner may, after a hearing in conformance with
4 applicable provisions of the Maine Administrative Procedure Act,
6 suspend or revoke a license issued under this chapter. The
 following are grounds for denial, suspension or revocation of a
 license:

8 1. Fraud or deceit. The practice of fraud or deceit in
10 obtaining a license under this chapter or in the performance of
 services within the scope of the license issued;

12 2. Conviction of certain crimes. Conviction of a crime
14 that relates directly to the practice for which the person is
16 licensed or conviction of a crime for which incarceration for one
 year or more may be imposed;

18 3. Violation of chapter or rule. A violation of this
20 chapter or a rule adopted by the commissioner;

22 4. Aiding or abetting unlicensed practice. Aiding or
24 abetting the practice of displaying or discharging fireworks by a
 person not duly licensed under this chapter; or

26 5. Incompetence. Incompetence in the practice of
28 displaying or discharging fireworks. A licensee is considered
 incompetent in the practice if the licensee has:

30 A. Engaged in professional conduct that evidences a lack of
32 ability or fitness to perform the duties for which that
 licensee is licensed; or

34 B. Engaged in professional conduct that evidences a lack of
36 knowledge of, or inability to apply, appropriate principles
 or skills to carry out the practice for which that licensee
 is licensed.

38 **§235. Suspension by commissioner**

40 1. Immediate suspension. If the commissioner has probable
42 cause to believe that a person licensed under this chapter poses,
44 because of gross negligence in the performance of duties
 associated with the license, an immediate threat to the public,
 the commissioner shall immediately suspend that person's license.

46 2. Duration of suspension. A suspension remains in effect
48 for 30 days unless a revocation procedure under section 234 is
50 commenced within the 30 days, in which case the suspension
 continues until the revocation procedure is complete.

