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## **An Act To Effect the Seizure and Disposal of Contraband Fireworks**

**Emergency preamble. Whereas,** acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the possession and use of fireworks by individuals without a permit is illegal in this State; and

**Whereas,** there is presently no provision for the efficient disposition of such fireworks seized by, surrendered to or in the possession of law enforcement agencies, including but not limited to the Department of Public Safety, Office of the State Fire Marshal; and

**Whereas,** it is vital that the lack of such a provision be addressed in order to safeguard the safety, security and rights of the citizens of this State; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 8 MRSA §237** is enacted to read:

### **§ 237. Seizure, forfeiture and disposal of fireworks**

**1. Seizure of fireworks.** A law enforcement officer may seize fireworks that the law enforcement officer has probable cause to believe are:

A. Stored, sold, manufactured, transported or found in any person's possession in violation of this chapter;

B. Shipped by common carrier in violation of this chapter to the address of a person in the State; or

C. Surrendered to or otherwise lawfully acquired by a law enforcement agency when there is no permitted claimant under this chapter.

**2. Forfeiture of seized fireworks.** All fireworks lawfully seized under this section are contraband and are forfeited to the State.

**3. Disposal of forfeited fireworks.** The commissioner may dispose of fireworks forfeited to the State under this section in any lawful manner considered appropriate by the commissioner, including, but not limited to, by their auction or destruction or by using them for training purposes.

**4. Exceptions.** This section does not apply to:

- A. Fireworks stored by, manufactured by, transported by, shipped by common carrier to, sold to or in the possession of a person issued a permit pursuant to section 227-A; or
- B. Fireworks otherwise permitted or exempted under this chapter.

**5. Procedure.** The following governs the process of disposing of fireworks seized pursuant to this section.

- A. As soon as reasonably possible following a seizure under subsection 1, the law enforcement officer or agency effecting the seizure shall cross-reference the commissioner's permit records to determine whether a permit exception applies.
- B. If a review of the permit records pursuant to paragraph A discloses that the fireworks were lawfully possessed, sold, stored, transported or manufactured, then the seizing agency shall return them to the lawful possessor as soon as reasonably possible.
- C. A public notice is not required to effect a lawful seizure, forfeiture and disposal if no permit exception applies.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

## SUMMARY

This bill creates a process for the disposal of fireworks seized by or surrendered to law enforcement authorities. The only situations in which fireworks are not contraband are when they are exempted from sanction, for instance, in the case of maritime flares, or the person possessing, using or transporting them is already permitted to do so under the Maine Revised Statutes, Title 8, chapter 9-A.