1989

Session Law 89-113

Florida Senate & House of Representatives

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S 348 GENERAL BILL/2ND ENG by McPherson (Similar CS/HB 1079)

Balloons/Released into Atmosphere; makes it unlawful to release, organize release, or cause to be released into atmosphere specified number of balloons within specified period of time; provides exceptions & penalty; provides for adoption of rules; provides for injunctive relief. Effective Date: 11/01/89 except ss. 2 & 3 take effect 06/26/89.

03/03/89 SENATE Prefiled
03/24/89 SENATE Referred to Natural Resources and Conservation; Judiciary-Civil
04/07/89 SENATE Introduced, referred to Natural Resources and Conservation; Judiciary-Civil -SJ 37
04/11/89 SENATE On Committee agenda—Natural Resources and Conservation, 04/11/89, 2:00 pm, Room-2C-(301)
04/11/89 SENATE Comm. Report: Favorable with 2 amendment(s) by Natural Resources and Conservation -SJ 124
04/12/89 SENATE Extension of time granted Committee Judiciary-Civil
04/14/89 SENATE On Committee agenda—Judiciary-Civil, 04/25/89, 4:00 pm. Room-1C-(309)
04/25/89 SENATE Comm. Report: Favorable by Judiciary-Civil, placed on Calendar -SJ 211
05/16/89 SENATE Placed on Consent Calendar -SJ 354; Placed on Special Order Calendar -SJ 354; Passed as amended; YEAS 35 NAYS 2 -SJ 376; Immediately certified -SJ 376
05/16/89 HOUSE In Messages
05/25/89 HOUSE Received, placed on Calendar -HJ 633
05/30/89 HOUSE Placed on Special Order Calendar
05/31/89 HOUSE Substituted for CS/HB 1079; Read second time; Amendments adopted; Read third time; Passed as amended; YEAS 108 NAYS 2 -HJ 921
06/01/89 SENATE Concurred: Passed as amended; YEAS 38 NAYS 0 -SJ 748
06/01/89 SENATE Ordered engrossed, then enrolled -SJ 748
06/12/89 Signed by Officers and presented to Governor
06/26/89 Approved by Governor; Chapter No. 89-113

NOTES: Above bill history from Division of Legislative Information's FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.
I. SUMMARY:

A. Present Situation:

Recently, it has become common for large numbers of helium-filled balloons to be released into the atmosphere as part of promotional, sporting, or other events. However, no data are available regarding the frequency of these types of balloon launchings. Balloons launched in conjunction with such events eventually fall, intact or in pieces, landing on the ground or on a body of water. Thus, at some level, there is an impact on the environment.

Both land and marine animals may be affected by balloon debris. Based upon reports of balloon material being found in dead sea animals, including sea turtles and whales, a perception has formed that such material poses a serious hazard to these types of animals.


The report addressed the adverse effects of plastic and other related materials on the environment. A part of the report addressed the environmental impact of balloon launches.

The report found that most balloons released in promotional balloon launches are helium-filled rubber latex balloons. Id. at 117. More expense mylar (metal over polyester) balloons are used to a lesser extent. Id.

The lifetime of balloons in the environment is unknown, however, there are indications that balloons degrade slower in water than on land. Id. "Under east-coast conditions in summer, latex balloons were observed to become brittle in 3-5 months when exposed on land." Id. (citation omitted).

The report states that "(n)ondegradable balloons are currently available in the U.S. market." Id. That is, at the present, no balloons with enhanced biogradability or photodegradability are being manufactured. While a rapidly degradable balloon easily can be developed, there is no incentive for manufacturers so to do. Id.
Little research has been done on the effect of the ingestion of balloons, whether latex or mylar, by animals. However, at least one study has directly addressed this question.

A small pilot project conducted by the University of Miami studied the effect of the ingestion of latex balloons by sea turtles. Lutz, *Pilot Experiments Concerning Balloon Ingestion by Sea Turtles*, Div. of Biology and Living Resources, Univ. of Miami (1988). The study was funded by the Toy Manufacturers Association of America. *Id.* at 1.

The study addressed three questions:

1. Is the ingestion of the balloon material accidental or deliberate?
2. If deliberate, is any color preference shown?
3. Is the latex material in any way digested or altered on passage through the gut?

*Id.* A controlled experiment was conducted in an attempt to answer these questions.

Five turtles were isolated and offered pieces of different colored latex, and pieces of clear sheeting, at different levels of food deprivation. *Id.* at 2. Feeding behavior was observed, as was the time taken to pass ingested materials. *Id.* The passed material was examined. *Id.*

The report concluded that if sufficiently hungry, sea turtles will eat latex materials; the amount depends upon their nutritional state. *Id.* at 3. No color preference was observed. *Id.* The ingested material began appearing in the tank water consistent with normal gut passage time, but the material continued to appear for as long as 4 months. *Id.* at 2. Some evidence of deterioration was observed in the latex pieces held in the gut for the longest time. *Id.* These findings suggest that ingested balloon material may remain in sea turtles for extended periods of time and may begin to decompose while in the animal.

The author emphasized the preliminary nature of the findings. He expressed concern that pieces of latex may be gathering up in the gut, and therefore, suggested further investigation of this possibility. *Id.* at 3. Further investigation also was suggested to determine if decomposition of the balloon pieces in the animal has deleterious metabolic effects. *Id.*

Finally, the report noted that the significance of the ingestion of balloon material by sea turtles in the wild "will depend upon the likelihood of turtles coming upon sufficient amounts of balloon material to be harmful." *Id.* at 5. This phenomenon "is as much a matter of meteorology and ocean currents as turtle biology." *Id.*

B. Effect of Proposed Changes:

The bill makes it unlawful for any person to intentionally release or intentionally cause to be released within a 24-hour period ten or more balloons inflated with a gas that is lighter than air. Exceptions are made for:

1. Balloons released by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes; or

2. Hot air balloons that are recovered after launching.

A violation of the provisions of the bill constitutes a noncriminal infraction, punishable by a fine of $250.
Any person may petition the circuit court to enjoin the release of ten or more balloons if that person is a citizen of the county in which the balloons are to be released.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

A person who intentionally releases ten or more balloons would be subject to a $250 fine. It is not known if the levy of such a fine would actually deter such activities. Enforcement problems could arise if the state attorneys refuse to pursue such cases.

Balloon vendors have indicated that the passage of this bill could affect their balloon sales. The number of balloons sold in Florida cannot be determined at this time.

B. Government:

The impact, if any, on any governmental unit cannot be determined at this time.

III. COMMENTS:

Legislation introduced in the New Jersey Assembly would prohibit the launching of 10 or more balloons, if the balloons are not biodegradable within a certain time period. A maximum civil penalty of $2,500 could be imposed on a person who launches up to 60 balloons. A maximum civil penalty of $25,000 could be imposed if 60 or more balloons are launched.

IV. AMENDMENTS:

#1 by Natural Resources and Conservation--Makes it unlawful for any person to sell for the purpose of release ten or more balloons within a 24-hour period.

#2 by Natural Resources and Conservation--The provisions of this bill do not apply to indoor balloon releases.
I. SUMMARY:

A. PRESENT SITUATION:

It has become common for large numbers of helium-filled balloons to be released into the atmosphere as part of promotional, sporting, or other events. These balloons eventually burst and fall to the ground or into the ocean. Most of the balloons that are released are latex, since mylar balloons are more expensive. While these latex balloons eventually deteriorate and break up, they are often eaten by marine animals before they decay.

The Chairman of the Department of Biology and Living Resources of the University of Miami, Dr. Peter Lutz, recently concluded a study in which he determined that sea turtles deliberately eat small sublethal pieces of latex, without regard to the color of the material. Dr. Lutz found that the pieces of latex generally stayed in the turtles' guts for eight weeks, but in one case stayed in as long as four months. He expressed concern in his report that pieces of latex are gathering up in sea turtles' guts, since normal food is digested in about one week. Dr. Lutz has indicated that he does not feel that it was ethical to feed sea turtles latex material for the purpose of determining how much is lethal.

Scientists at the Marine Mammal Stranding Center in Brigantine, New Jersey and at the Marine Science Institute of the University of Texas have determined by autopsies that the balloons can kill sea turtles and sperm whales, but it is not known how many are killed each year by balloons.
B. EFFECT OF PROPOSED CHANGES:

This bill was passed as Senate Bill 348. The bill states that the Legislature finds that the release of a large number of inflated balloons poses a danger and nuisance to the environment.

The bill makes the intentional release of ten or more inflated balloons within a 24 hour period a noncriminal infraction, punishable by a fine of $250. The bill provides for four exceptions: balloons released by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes; hot air balloons that are recovered after launching; balloons released indoors; and balloons that are either biodegradable or photodegradable as determined by the Marine Fisheries Commission, if they are hand-tied without string, ribbon, or other attachments. In the case of the latter exemption, the party responsible for the release shall make evidence of the biodegradability or photodegradability of the balloons in the form of the certificate executed by the manufacturer. Failure to provide the evidence shall be prima facie evidence of a violation of this act.

The bill provides that the Marine Fisheries Commission is directed to adopt rules on or before November 1, 1989, which establish criteria for photodegradability or biodegradability of balloons. These criteria shall provide for protection for birds, sea turtles, whales, and other marine life.

The bill provides that a person who is a citizen of the county in which balloons are to be released may petition the circuit court to enjoin the release of ten or more balloons.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. Makes legislative findings; makes the intentional release of balloons a noncriminal infraction; provides exceptions; provides for injunctions.

Section 2. Provides an effective date of November 1, 1989.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:
   None.

2. Recurring or Annualized Continuation Effects:
   None.

3. Long Run Effects Other Than Normal Growth:
   None.
4. Appropriations Consequences:
   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:
   None.

2. Recurring or Annualized Continuation Effects:
   None.

3. Long Run Effects Other Than Normal Growth:
   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   Manufacturers and distributors of balloons may experience some loss of business. Groups which use balloon releases as fundraisers will experience loss of balloon releases as a fundraising mechanism. These losses, however, may have occurred in any case because organizations which have released balloons in the past may have discontinued the practice of releasing balloons because of environmental concerns.

2. Direct Private Sector Benefits:
   None.

3. Effects on Competition, Private Enterprise, and Employment Markets:
   See above.

D. FISCAL COMMENTS:
   None.

III. LONG RANGE CONSEQUENCES:

This bill is consistent with the State Comprehensive Plan, especially with the following policies:

(10) NATURAL SYSTEMS AND RECREATIONAL LANDS.--

(b) Policies.--
1. Conserve forests, wetlands, fish, marine life, and wildlife to maintain their environmental, economic, aesthetic, and recreational values.

3. Prohibit the destruction of endangered species and protect their habitats.

IV. COMMENTS:

This bill is consistent with the Natural Resources Committee's Mission Statement, particularly the provision stating:

Protect both game and nongame wildlife and fish, and the habitats that support them, especially endangered and threatened species.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: Staff Director:

Mike Brothers

SECOND COMMITTEE OF REFERENCE:
Prepared by: Staff Director:

APPROPRIATIONS:
Prepared by: Staff Director: