

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/SB 602

INTRODUCER: Fiscal Policy Committee; Environment and Natural Resources Committee and Senator DiCeglie

SUBJECT: Release of Balloons

DATE: February 28, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<u>Favorable</u>
3.	<u>Carroll</u>	<u>Yeatman</u>	<u>FP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 602 prohibits the intentional release of balloons inflated with a gas that is lighter than air. To effect this change, the bill removes language allowing the intentional release of fewer than 10 balloons within a 24-hour period. The bill also removes an exemption for the intentional release of biodegradable or photodegradable balloons. The bill provides that laws regulating the intentional release of balloons do not apply to a child six years of age or younger.

The bill provides that the intentional release of balloons is punishable under the Florida Litter Law. The bill also revises the definitions of “dump” and “litter” in the Florida Litter Law.

The bill takes effect July 1, 2024.

II. Present Situation:

Florida Fish and Wildlife Conservation Commission

The Florida Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state’s fish and wildlife resources.¹ FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Florida

¹ FLA. CONST. art. IV, s. 9.

Senate.² Under Article IV, Section 9 of the Florida Constitution, FWC has the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.³

Balloon Litter

Balloons released to celebrate special occasions eventually deflate and end up in streams, rivers, and oceans where they create hazardous conditions for wildlife.⁴ Balloons are among the top ten types of debris found during coastal cleanups.⁵ Balloon litter is especially deadly for marine life. Marine animals easily mistake balloons or balloon fragments for food and, once ingested, balloons can cause nutrition loss, internal injury, starvation, and death.⁶ String or ribbon attached to balloons may entangle marine life, causing injury, illness, and suffocation.⁷

Release of Balloons

In the State of Florida, it is unlawful for any person, firm, or corporation to intentionally release, organize the release, or intentionally cause to be released within a 24-hour period 10 or more balloons inflated with a gas that is lighter than air. Any person may petition the circuit court to enjoin the release of 10 or more balloons if that person is a citizen of the county in which the balloons will be released.⁸

Certain additional balloon releases are allowed under the law, including:

- 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; or
- Balloons that are either biodegradable or photodegradable, as determined by the rule of FWC, and which are closed by a hand-tied knot in the stem of the balloon without string, ribbon, or other attachments.⁹

There has not yet been a balloon that FWC recognizes as meeting exemption requirements for biodegradability or photo degradability.¹⁰

Any person who violates the prohibition against intentional balloon releases is guilty of a noncriminal infraction and punishable by a fine of \$250.¹¹

² *Id.*; see also s. 379.102(1), F.S.

³ FLA. CONST. art. IV, s. 9.

⁴ Ocean Conservation Society, *Be Balloon Aware*, <https://www.oceanconservation.org/be-balloon-aware/> (last visited Jan. 17, 2024).

⁵ *Id.*

⁶ National Oceanic and Atmospheric Administration, Marine Debris Program, *What Goes Up, Must Come Down*, <https://blog.marinedebris.noaa.gov/index.php/what-goes-must-come-down/> (last visited Jan. 17, 2024).

⁷ *Id.*

⁸ Section 379.233(4), F.S.

⁹ Section 379.233(2), F.S.

¹⁰ Jess Melkun, FWC, *Release of balloons* (email on file with the Senate Committee on Environment and Natural Resources).

¹¹ Section 379.233(3), F.S.

Florida Litter Law

The Florida Litter Law provides that, unless otherwise authorized by law or permit, it is unlawful to dump¹² litter¹³ in or on any:

- Public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided therefor;
- Freshwater lake, river, canal, or stream or tidal or coastal water of the state, including canals;
- Water control district property or canal right-of-way, unless the district board of directors or the district manager or his or her designee has given prior consent; or
- Private property, unless the owner has given prior consent and unless the dumping of such litter by such person will not cause a public nuisance or otherwise be in violation of any other state or local law, rule, or regulation.¹⁴

The penalties for dumping litter typically correspond with the amount of litter discarded.¹⁵ The following table shows the penalties associated with the amount of litter dumped.

Amount of Litter	Penalty
≤ 15 pounds or ≤ 27 cubic feet	Noncriminal infraction, punishable by a civil penalty of \$150
> 15 pounds, but ≤ 500 pounds or > 27 cubic feet, but ≤ 100 cubic feet	First-degree misdemeanor, punishable by imprisonment for up to one year and a \$1,000 fine
> 500 pounds or > 100 cubic feet	Third-degree felony, punishable by imprisonment for up to five years and a \$5,000 fine

III. Effect of Proposed Changes:

Section 1 amends s. 379.233, F.S., which provides that it is unlawful to intentionally release, organize the release of, or intentionally cause to be released balloons inflated with a gas that is lighter than air. The bill deletes language allowing the intentional release of fewer than 10 balloons within a 24-hour period. The bill removes the exemption allowing the intentional release of biodegradable or photodegradable balloons which are closed by a hand-tied knot in the stem of the balloon without string, ribbon, or other attachments.

The bill provides that a person who intentionally releases balloons in violation of the law commits a noncriminal littering infraction. Current statutory language provides that the person is

¹² “Dump” means to dump, throw, discard, place, deposit, drain, discharge, or dispose of. Section 403.413(2), F.S.

¹³ “Litter” means any personal property; garbage; rubbish; trash; refuse; can; bottle; box; container; paper; tobacco product; pharmaceutical of any kind; tire; household item; shed; appliance; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part, including a truck, trailer, or motor home; vessel; aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations, but excluding permitted, regulated, or authorized drainage, pumping, or runoff of surface water or stormwater. Section 403.413(2), F.S.

¹⁴ Section 403.413(4), F.S.

¹⁵ Section 403.413(6), F.S.

guilty of a noncriminal infraction. The bill provides that a violation is punishable under the Florida Litter Law.

The bill provides that this section regulating the intentional release of balloons does not apply to a person 6 years of age or younger.

The bill removes language allowing any person to petition the circuit court to enjoin the release of 10 or more balloons if that person is a citizen of the county in which the balloons are to be released.

Section 2 amends s. 403.413, F.S., to revise the following definitions in the Florida Litter Law:

- “Dump,” by adding that the term includes, with respect to balloons, to intentionally release, organize the release of, or intentionally cause to be released;
- “Litter,” by adding balloon.

The bill provides that a person who is 6 years of age or younger who intentionally releases, organizes the release of, or intentionally causes to be released balloons as prohibited by statute does not violate the Florida Litter Law and is not subject to its penalties.

Section 3 reenacts s. 403.4135(1), F.S., for the purpose of incorporating the amendment made by this bill to the Florida Litter Law in a reference thereto.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There is currently a \$250 fine that is deposited into the fine and forfeiture fund of the clerk of court for the county where the infraction occurred. The bill changes the infraction to a littering violation, which has a civil penalty of \$150, of which \$50 is deposited into the Solid Waste Management Trust Fund in the Department of Environmental Protection (DEP). Thus, the bill may cause an indeterminate negative fiscal impact to local governments for the reduction in penalties and an indeterminate positive fiscal impact to DEP.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 379.233 and 403.413 of the Florida Statutes.

This bill reenacts 403.4135(1) of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Fiscal Policy on February 27, 2024:**

The committee substitute:

- Provides that laws regulating the intentional release of balloons do not apply to a child six years of age or younger.
- Specifies that a child six years of age or younger who intentionally releases one or more balloons does not violate the Florida Litter Law and is not be subject to its penalties.

¹⁶ Florida Fish and Wildlife Conservation Commission, *2024 Agency Legislative Bill Analysis: SB 602*, 3-4 (on file with the Senate Committee on Environment and Natural Resources).

- Clarifies that the term “dump,” as defined in the Florida Litter Law, includes, with respect to balloons, to intentionally release, organize the release of, or intentionally cause to be released.

CS by Environment and Natural Resources on January 10, 2024:

The committee substitute restores the term “personal property” in the definition of litter.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
