Chapter 9.79 Aerial Luminaries

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9.79.010 Definitions:

(a) aerial luminary—As used in this chapter, the term “aerial luminary” is defined as a device consisting of a balloon or like envelope, and an attached ignitable fuel source, such as a candle or container of flammable solids, liquids, or gasses, which ignitable fuel source warms air to fill the envelope, thus producing lift and causing the envelope and ignitable fuel source to take flight. The envelope on an aerial luminary is frequently, but not always, made from tissue or similar paper. Aerial luminaries are often referred to as “sky lanterns.” Manned balloon-type aircraft such as hot air balloons, blimps, dirigibles, and zeppelins are not aerial luminaries under this chapter.

(b) ignitable fuel source—As used in this chapter, the term “ignitable fuel source” is defined as a solid, liquid, or gas which, when set aflame, warms air for filling the balloon or like envelope on an aerial luminary.

(f) knowingly—As used in this chapter, the term “knowingly” is defined the same as in Montana Code Annotated Section 45-2-101(35).

(c) person—As used in this chapter, the term “person” is defined in its broadest sense, so as to include natural-born persons as well as organizations, regardless of whether formed for profit. Organizations include, but are not limited to, sole proprietorships, partnerships, limited liability companies, corporations, nonprofit corporations, franchisers and franchisees.

(d) possession—As used in this chapter, the term “possession” and like terms such as “possesses” are defined the same as in Montana Code Annotated Section 45-2-101(59).

(e) purposely—As used in this chapter, the term “purposely” is defined the same as in Montana Code Annotated Section 45-2-101(65).

9.79.020 Possession of Aerial Luminaries Prohibited

(a) A person who purposely or knowingly possesses an aerial luminary commits the offense of Possession of an Aerial Luminary.

(b) A person in violation of this section shall be fined the sum of $100.00 per aerial luminary in their possession, subject to a maximum fine of $500.00.

9.79.030 Transacting in Aerial Luminaries Prohibited—Absolute Liability Imposed

(a) A person who maintains in inventory for sale, sells, offers for sale, distributes, vends, or donates an aerial luminary commits the offense of Transacting in Aerial Luminaries.

(b) A person in violation of this section shall be fined the sum of $100.00 per aerial luminary maintained in inventory for sale, sold, offered for sale, distributed, vended, or donated, subject to a maximum fine of $1,000.00 and provided that no single aerial luminary shall be counted twice under the foregoing descriptive categories of transacting.

(c) Pursuant to Montana Code Annotated 45-2-104, it shall be no defense to a violation of this section that the person so violating did not have one of the mental states of purposely, knowingly, or negligently as those mental states are defined in Montana Code Annotated 45-2-101.

9.79.040 Ignition of Aerial Luminaries Prohibited—Absolute Liability Imposed

(a) A person who ignites or otherwise causes to be set aflame the ignitable fuel source for an aerial luminary commits the offense of Ignition of an Aerial Luminary.

(b) A person in violation of this section shall be fined the sum of $250.00 per aerial luminary ignited, subject to a maximum fine of $1,000.00.

(c) Pursuant to Montana Code Annotated 45-2-104, it shall be no defense to a violation of this section that the person so violating did not have one of the mental states of purposely, knowingly, or negligently as those mental states are defined in Montana Code Annotated 45-2-101.

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