

HOUSE BILL No. 4726

June 16, 2015, Introduced by Reps. Yanez, Derek Miller, Moss, Faris, Liberati, Garrett, Hoadley, Greig, Lane, Chirkun and Sarah Roberts and referred to the Committee on Regulatory Reform.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding sections 243f, 243g, 243h, 243i, and 243j; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 243F. (1) AS USED IN THIS CHAPTER:**
2 **(A) "CLASS B FIREWORKS" MEANS TOY TORPEDOES, RAILWAY**
3 **TORPEDOES, FIRECRACKERS OR SALUTES THAT DO NOT QUALIFY AS CLASS C**
4 **FIREWORKS, EXHIBITION DISPLAY PIECES, AEROPLANE FLARES,**
5 **ILLUMINATING PROJECTILES, INCENDIARY PROJECTILES, INCENDIARY**
6 **GRENADES, SMOKE PROJECTILES OR BOMBS CONTAINING EXPELLING CHARGES**
7 **BUT WITHOUT BURSTING CHARGES, FLASH POWDERS IN INNER UNITS NOT**
8 **EXCEEDING 2 OUNCES EACH, FLASH SHEETS IN INTERIOR PACKAGES, FLASH**
9 **POWDER OR SPREADER CARTRIDGES CONTAINING NOT MORE THAN 72 GRAINS**
10 **OF FLASH POWDER EACH, AND OTHER SIMILAR DEVICES.**

1 (B) "CLASS C FIREWORKS" MEANS TOY SMOKE DEVICES, TOY CAPS
2 CONTAINING NOT MORE THAN .25 GRAINS OF EXPLOSIVE MIXTURE, TOY
3 PROPELLANT DEVICES, CIGARETTE LOADS, TRICK MATCHES, TRICK NOISE
4 MAKERS, SMOKE CANDLES, SMOKE POTS, SMOKE GRENADES, SMOKE SIGNALS,
5 HAND SIGNAL DEVICES, VERY SIGNAL CARTRIDGES, SPARKLERS, EXPLOSIVE
6 AUTO ALARMS, AND OTHER SIMILAR DEVICES.

7 (C) "FIREWORKS" MEANS A DEVICE MADE FROM EXPLOSIVE OR
8 FLAMMABLE COMPOSITIONS USED PRIMARILY FOR THE PURPOSE OF
9 PRODUCING A VISIBLE DISPLAY OR AUDIBLE EFFECT, OR BOTH, BY
10 COMBUSTION, DEFLAGRATION, OR DETONATION.

11 (2) EXCEPT AS PROVIDED IN SUBSECTION (3) AND SECTIONS 243G,
12 243H, AND 243I, A PERSON, FIRM, PARTNERSHIP, OR CORPORATION SHALL
13 NOT OFFER FOR SALE, EXPOSE FOR SALE, SELL AT RETAIL, KEEP WITH
14 INTENT TO SELL AT RETAIL, POSSESS, GIVE, FURNISH, TRANSPORT, USE,
15 EXPLODE, OR CAUSE TO EXPLODE ANY OF THE FOLLOWING:

16 (A) A BLANK CARTRIDGE, BLANK CARTRIDGE PISTOL, TOY CANNON,
17 TOY CANE, OR TOY GUN IN WHICH EXPLOSIVES ARE USED.

18 (B) AN UNMANNED BALLOON THAT REQUIRES FIRE UNDERNEATH TO
19 PROPEL IT AND IS NOT MOORED TO THE GROUND WHILE ALOFT.

20 (C) FIRECRACKERS, TORPEDOES, SKYROCKETS, ROMAN CANDLES,
21 BOTTLE ROCKETS, WHISTLING CHASERS, ROCKETS ON STICKS, OR OTHER
22 FIREWORKS OF SIMILAR CONSTRUCTION.

23 (D) FIREWORKS CONTAINING AN EXPLOSIVE OR INFLAMMABLE
24 COMPOUND OR A TABLET OR OTHER DEVICE COMMONLY USED AND SOLD AS
25 FIREWORKS CONTAINING NITRATES, FULMINATES, CHLORATES, OXALATES,
26 SULPHIDES OF LEAD, BARIUM, ANTIMONY, ARSENIC, MERCURY,
27 NITROGLYCERINE, PHOSPHORUS, OR A COMPOUND CONTAINING THESE OR

1 OTHER MODERN EXPLOSIVES.

2 (3) A PERMIT IS NOT REQUIRED FOR ANY OF THE FOLLOWING:

3 (A) FLAT PAPER CAPS CONTAINING NOT MORE THAN .25 OF A GRAIN
4 OF EXPLOSIVE CONTENT PER CAP, IN PACKAGES LABELED TO INDICATE THE
5 MAXIMUM EXPLOSIVE CONTENT PER CAP.

6 (B) TOY PISTOLS, TOY CANNONS, TOY CANES, TOY TRICK NOISE
7 MAKERS, AND TOY GUNS OF A TYPE APPROVED BY THE DIRECTOR OF THE
8 DEPARTMENT OF STATE POLICE IN WHICH PAPER CAPS AS DESCRIBED IN
9 SUBDIVISION (A) ARE USED AND THAT ARE SO CONSTRUCTED THAT THE
10 HAND CANNOT COME IN CONTACT WITH THE CAP WHEN IN PLACE FOR THE
11 EXPLOSION AND THAT ARE NOT DESIGNED TO BREAK APART OR BE
12 SEPARATED SO AS TO FORM A MISSILE BY THE EXPLOSION.

13 (C) SPARKLERS CONTAINING NOT MORE THAN .0125 POUNDS OF
14 BURNING PORTION PER SPARKLER.

15 (D) FLITTER SPARKLERS IN PAPER TUBES NOT EXCEEDING 1/8 INCH
16 IN DIAMETER, CONE FOUNTAINS, AND CYLINDER FOUNTAINS.

17 (E) TOY SNAKES NOT CONTAINING MERCURY, IF PACKED IN
18 CARDBOARD BOXES WITH NOT MORE THAN 12 PIECES PER BOX FOR RETAIL
19 SALE AND IF THE MANUFACTURER'S NAME AND THE QUANTITY CONTAINED IN
20 EACH BOX ARE PRINTED ON THE BOX; AND TOY SMOKE DEVICES.

21 (F) POSSESSION, TRANSPORTATION, SALE, OR USE OF SIGNAL
22 FLARES OF A TYPE APPROVED BY THE DIRECTOR OF THE DEPARTMENT OF
23 STATE POLICE, BLANK CARTRIDGES OR BLANK CARTRIDGE PISTOLS
24 SPECIFICALLY FOR A SHOW OR THEATER, FOR THE TRAINING OR
25 EXHIBITING OF DOGS, FOR SIGNAL PURPOSES IN ATHLETIC SPORTS, OR
26 FOR USE BY MILITARY ORGANIZATIONS, AND ALL ITEMS DESCRIBED IN
27 SUBSECTION (2) USED BY RAILROADS FOR EMERGENCY SIGNAL PURPOSES.

1 (G) THE SALE OF FIREWORKS, PROVIDED THEY ARE TO BE SHIPPED
2 DIRECTLY OUT OF STATE UNDER REGULATIONS OF THE UNITED STATES
3 DEPARTMENT OF TRANSPORTATION COVERING THE TRANSPORTATION OF
4 EXPLOSIVES AND OTHER DANGEROUS ARTICLES BY MOTOR, RAIL, AND
5 WATER.

6 SEC. 243G. (1) THE LEGISLATIVE BODY OF A CITY, VILLAGE, OR
7 TOWNSHIP, UPON APPLICATION IN WRITING, ON FORMS PROVIDED BY THE
8 BUREAU OF FIRE SERVICES CREATED IN SECTION 1B OF THE FIRE
9 PREVENTION CODE, 1941 PA 207, MCL 29.1B, MAY GRANT A PERMIT FOR
10 THE USE OF FIREWORKS OTHERWISE PROHIBITED BY SECTION 243F, WITHIN
11 THE CITY, VILLAGE, OR TOWNSHIP, MANUFACTURED FOR OUTDOOR PEST
12 CONTROL OR AGRICULTURAL PURPOSES, OR FOR PUBLIC DISPLAY BY
13 MUNICIPALITIES, FAIR ASSOCIATIONS, AMUSEMENT PARKS, OR OTHER
14 ORGANIZATIONS OR GROUPS OF INDIVIDUALS APPROVED BY THE CITY,
15 VILLAGE, OR TOWNSHIP AUTHORITY, IF THE APPLICABLE PROVISIONS OF
16 THIS ACT ARE COMPLIED WITH. THE PERMITS MUST BE ON FORMS PROVIDED
17 BY THE BUREAU OF FIRE SERVICES. AFTER A PERMIT HAS BEEN GRANTED,
18 SALES, POSSESSION, OR TRANSPORTATION OF FIREWORKS FOR THE
19 PURPOSES DESCRIBED IN THE PERMIT ONLY MAY BE MADE. A PERMIT
20 GRANTED UNDER THIS SUBSECTION IS NOT TRANSFERABLE AND SHALL NOT
21 BE ISSUED TO AN INDIVIDUAL UNDER THE AGE OF 18 YEARS.

22 (2) THE LEGISLATIVE BODY OF A CITY, VILLAGE, OR TOWNSHIP,
23 UPON APPLICATION IN WRITING, MAY GRANT A PERMIT, ON FORMS
24 PROVIDED BY THE BUREAU OF FIRE SERVICES, TO A RESIDENT WHOLESALE
25 DEALER OR JOBBER TO HAVE IN HIS OR HER POSSESSION WITHIN THE
26 CITY, VILLAGE, OR TOWNSHIP, FIREWORKS OTHERWISE PROHIBITED BY
27 SECTION 243F, FOR SALE ONLY TO HOLDERS OF PERMITS AS PROVIDED IN

1 THIS SECTION. A PERMIT GRANTED UNDER THIS SUBSECTION IS NOT
2 TRANSFERABLE, NOR SHALL A PERMIT BE ISSUED TO AN INDIVIDUAL UNDER
3 THE AGE OF 18 YEARS.

4 (3) BEFORE A PERMIT FOR A PYROTECHNIC DISPLAY IS ISSUED, THE
5 PERSON APPLYING FOR THE PERMIT SHALL FURNISH PROOF OF FINANCIAL
6 RESPONSIBILITY BY A BOND OR INSURANCE IN AN AMOUNT, CHARACTER,
7 AND FORM CONSIDERED NECESSARY BY THE LOCAL GOVERNING AUTHORITY TO
8 SATISFY CLAIMS FOR DAMAGES TO PROPERTY OR PERSONAL INJURIES
9 ARISING OUT OF AN ACT OR OMISSION ON THE PART OF THE PERSON OR AN
10 AGENT OR EMPLOYEE OF THE PERSON, AND TO PROTECT THE PUBLIC.

11 (4) A PERMIT SHALL NOT BE ISSUED UNDER THIS ACT TO A
12 NONRESIDENT PERSON TO CONDUCT A PYROTECHNIC DISPLAY IN THIS STATE
13 UNTIL THE PERSON HAS APPOINTED IN WRITING A RESIDENT MEMBER OF
14 THE BAR OF THIS STATE OR A RESIDENT AGENT TO BE THE LEGAL
15 REPRESENTATIVE UPON WHOM ALL PROCESS IN AN ACTION OR PROCEEDING
16 AGAINST THE PERSON MAY BE SERVED.

17 (5) THE LOCAL GOVERNING AUTHORITY SHALL RULE ON THE
18 COMPETENCY AND QUALIFICATIONS OF OPERATORS OF PYROTECHNIC
19 DISPLAYS, AS THE OPERATOR HAS FURNISHED IN HIS OR HER APPLICATION
20 FORM, AND ON THE TIME, PLACE, AND SAFETY ASPECTS OF THE DISPLAYS
21 BEFORE GRANTING PERMITS.

22 SEC. 243H. TRANSPORTATION OF FIREWORKS INTRASTATE SHALL BE
23 MADE ONLY WITH THE PERMITS PROVIDED FOR IN THIS ACT AND AS
24 FOLLOWS:

25 (A) IN ACCORDANCE WITH UNITED STATES DEPARTMENT OF
26 TRANSPORTATION REGULATIONS FOR TRANSPORTATION OF EXPLOSIVES AND
27 OTHER DANGEROUS ARTICLES BY MOTOR, RAIL, AND WATER, INCLUDING

1 SPECIFICATIONS FOR SHIPPING CONTAINERS.

2 (B) IN NONPASSENGER CARRYING VEHICLES, IN CHARGE OF A
3 COMPETENT DRIVER NOT LESS THAN 18 YEARS OF AGE, THAT ARE EQUIPPED
4 WITH A 15-POUND CARBON DIOXIDE OR A 10-POUND DRY CHEMICAL FIRE
5 EXTINGUISHER; AND IN OR NEAR WHICH SMOKING IS PROHIBITED WHILE
6 LOADING, UNLOADING, OR TRANSPORTING FIREWORKS.

7 SEC. 243I. (1) FIREWORKS KEPT AT THE SITE OF A WHOLESALER,
8 DEALER, OR JOBBER, EXCEPT FOR A RETAILER WHO HAS GOODS ON HAND
9 FOR SALE TO THE PUBLIC IN A SUPERVISED DISPLAY AREA, SHALL BE
10 STORED IN A 1-STORY, NONCOMBUSTIBLE BUILDING WITHOUT A BASEMENT,
11 WHICH BUILDING IS WEATHER RESISTANT, WELL VENTILATED, AND
12 EQUIPPED WITH A STRONG DOOR KEPT SECURELY LOCKED EXCEPT WHEN OPEN
13 FOR BUSINESS.

14 (2) THE LOCATION OF A STORAGE BUILDING UNDER SUBSECTION (1)
15 MUST BE APPROVED BY THE LOCAL GOVERNING AUTHORITY HAVING
16 JURISDICTION AND BE LOCATED NOT LESS THAN THE FOLLOWING DISTANCES
17 FROM INHABITED BUILDINGS, PASSENGER RAILROADS, AND PUBLIC
18 HIGHWAYS ACCORDING TO THE NUMBER OF POUNDS OF FIREWORKS STORED,
19 ROUNDED TO THE NEAREST
20 POUND:

21 NET WEIGHT OF	22 DISTANCE FROM		23 DISTANCE FROM	
24 FIREWORKS	25 PASSENGER RAILWAYS		26 INHABITED BUILDINGS	
	AND PUBLIC HIGHWAYS			
	CLASS C	CLASS B	CLASS C	CLASS B
	FIREWORKS	FIREWORKS	FIREWORKS	FIREWORKS
26 POUNDS	FEET	FEET	FEET	FEET

1	100 OR LESS	25	200	50	200
2	101 TO 200	30	200	60	200
3	201 TO 400	35	200	70	200
4	401 TO 600	40	200	80	208
5	601 TO 800	45	200	90	252
6	801 TO 1,000	50	200	100	292
7	1,001 TO 2,000	58	230	115	459
8	2,001 TO 3,000	62	296	124	592
9	3,001 TO 4,000	65	352	130	704
10	4,001 TO 5,000	68	400	135	800
11	5,001 TO 6,000	70	441	139	882
12	6,001 TO 8,000	73	509	140	1,018
13	8,001 TO 10,000	75	565	150	1,129
14	10,001 TO 15,000	80	668	159	1,335
15	15,001 TO 20,000	83	745	165	1,490
16	20,001 TO 30,000	87	863	174	1,725
17	30,001 TO 40,000	90	953	180	1,906
18	40,001 TO 50,000	93	1,030	185	2,060
19	50,001 TO 60,000	95	1,095	189	2,190
20	60,001 TO 80,000	98	1,205	195	2,410
21	80,001 TO 100,000	100	1,300	200	2,600
22	100,001 TO 150,000	105	1,488	209	2,975
23	150,001 TO 200,000	108	1,638	215	3,275
24	200,001 OR MORE	110	1,765	220	3,530

25 (3) A PERSON SHALL NOT CAUSE OR ALLOW SMOKING, MATCHES, OPEN
26 FLAMES, SPARK-PRODUCING DEVICES, OR FIREARMS INSIDE OF OR WITHIN
27 50 FEET OF A BUILDING USED FOR THE STORAGE OF FIREWORKS. A PERSON
28 SHALL NOT STORE COMBUSTIBLE MATERIALS WITHIN 50 FEET OF A

1 BUILDING USED FOR THE STORAGE OF FIREWORKS.

2 (4) THE INTERIOR OF A BUILDING USED FOR THE STORAGE OF
3 FIREWORKS SHALL BE KEPT CLEAN AND FREE FROM DEBRIS AND EMPTY
4 CONTAINERS. A PERSON SHALL NOT USE A BUILDING USED FOR THE
5 STORAGE OF FIREWORKS FOR THE STORAGE OF ANY METAL TOOLS OR ANY
6 COMMODITY OTHER THAN FIREWORKS.

7 (5) A PERSON SHALL NOT PROVIDE A BUILDING USED FOR THE
8 STORAGE OF FIREWORKS WITH HEAT OR LIGHTS, EXCEPT THAT IF LIGHTS
9 ARE NECESSARY, AN ELECTRIC SAFETY FLASHLIGHT OR SAFETY LANTERN
10 MUST BE USED.

11 (6) A BUILDING USED FOR THE STORAGE OF FIREWORKS MUST BEAR
12 LETTERING ON EACH SIDE AND TOP IN LETTERS NOT LESS THAN 4 INCHES
13 HIGH, THE WORDS "EXPLOSIVES-KEEP FIRE AWAY".

14 (7) A BUILDING USED FOR THE STORAGE OF FIREWORKS MUST BE
15 UNDER THE SUPERVISION OF A COMPETENT PERSON WHO IS NOT LESS THAN
16 18 YEARS OF AGE.

17 (8) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (2),
18 SALUTES THAT DO NOT QUALIFY AS CLASS C FIREWORKS ARE CONSIDERED
19 TO BE HAZARDOUS MATERIAL AND MUST BE STORED IN ACCORDANCE WITH
20 RULES FOR THE STORAGE AND HANDLING OF HAZARDOUS MATERIAL
21 PROMULGATED UNDER SECTION 3C OF THE FIRE PREVENTION CODE, 1941 PA
22 207, MCL 29.3C.

23 SEC. 243J. A PERSON THAT VIOLATES A PROVISION OF SECTIONS
24 243F TO 243I OR THAT VIOLATES THE TERMS OF A PERMIT ISSUED UNDER
25 THOSE SECTIONS IS GUILTY OF A MISDEMEANOR.

26 Enacting section 1. The Michigan fireworks safety act, 2011
27 PA 256, MCL 28.451 to 28.471, is repealed.