

HOUSE BILL No. 6410

September 5, 2006, Introduced by Reps. Schuitmaker, Hildenbrand, Elsenheimer, Gosselin, Drolet and Garfield and referred to the Committee on Government Operations.

A bill to revise, consolidate, and codify the laws relating to fireworks; to regulate the purchase, possession, sale, and use of fireworks; to provide for penalties and remedies; and to prescribe the powers and duties of certain state agencies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan fireworks safety act".

3 Sec. 2. As used in this act:

4 (a) "Auto burglar alarm" means a tube that contains
5 pyrotechnic composition that produces a loud whistle or smoke
6 when ignited. Not more than 50 milligrams of explosive may also
7 be used to produce a small report. A squib is used to ignite the
8 device.

9 (b) "Booby trap" means a small tube with string protruding
10 from both ends, similar to a party popper in design. The ends of

1 the string are pulled to ignite the friction-sensitive
2 composition, producing a small report.

3 (c) "Bureau" means the bureau of fire services created under
4 section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b.

5 (d) "Chaser" means a device containing 50 milligrams or less
6 of explosive composition that consists of a small paper or
7 cardboard tube that travels along the ground upon ignition. A
8 whistling effect is often produced, and a small noise may be
9 produced.

10 (e) "Cigarette load" means a small wooden peg that has been
11 coated with a small quantity of explosive composition. Upon
12 ignition of a cigarette containing 1 of the pegs, a small report
13 is produced.

14 (f) "Cone fountain" means a cardboard or heavy paper cone
15 that contains not more than 50 grams of pyrotechnic composition
16 and that produces the same effect as a cylindrical fountain.

17 (g) "Consumer firework" means a small firework that is
18 designed primarily to produce visible effects by combustion and
19 that is required to comply with the construction, chemical
20 composition, and labeling regulations promulgated by the United
21 States consumer product safety commission under 16 CFR 1507.
22 Consumer firework also may include small devices designed to
23 produce an audible effect, such as whistling devices, devices
24 containing 50 milligrams or less of explosive composition, and
25 aerial devices containing 130 milligrams or less of explosive
26 composition. Propelling or expelling charges consisting of a
27 mixture of charcoal, sulfur, and potassium nitrate are not

1 considered as designed to produce an audible effect. Consumer
2 fireworks include all of the following:

3 (i) Aerial devices, which include sky rockets, missile type
4 rockets, helicopter or aerial spinners, Roman candles, mines, and
5 shells.

6 (ii) Ground audible devices, which include firecrackers,
7 salutes, and chasers.

8 (iii) Firework devices containing combinations of 2 or more of
9 the effects described in subparagraphs (i) and (ii).

10 (h) "Consumer fireworks" does not include items listed in
11 section 7(1) and wire sparklers that contain no magnesium and
12 less than 100 grams of composition per item.

13 (i) "Cylindrical fountain" means a cylindrical tube not more
14 than 3/4 inch in inside diameter and containing not more than 75
15 grams of pyrotechnic composition. A cylindrical fountain produces
16 a shower of color and sparks upon ignition, and may produce a
17 whistling effect. Cylindrical fountains may contain a spike to be
18 inserted in the ground (spike fountain), a wooden or plastic base
19 to be placed on the ground (base fountain), or a wooden handle or
20 cardboard handle for items designed to be handheld (handle
21 fountain).

22 (j) "Dipped stick" or "wire sparkler" means a stick or wire
23 coated with pyrotechnic composition that produces a shower of
24 sparks upon ignition. The total pyrotechnic composition of a
25 dipped stick or wire sparkler is not more than 100 grams per
26 item, except that a dipped stick or wire sparkler containing
27 chlorate or perchlorate salts does not exceed 5 grams in total

1 composition per item.

2 (k) "Distributor" means a person who sells fireworks to
3 wholesalers and retailers for resale.

4 (l) "Explosive composition" means a chemical or mixture of
5 chemicals that produces an audible effect by deflagration or
6 detonation when ignited.

7 (m) "Firecracker" or "salute" means a device that consists
8 of a small paper wrapped or cardboard tube containing not more
9 than 50 milligrams of pyrotechnic composition and that produces,
10 upon ignition, noise, accompanied by a flash of light.

11 (n) "Firework" or "fireworks" means any composition or
12 device designed for the purpose of producing a visible or audible
13 effect by combustion, deflagration, or detonation. Fireworks
14 consist of consumer fireworks, items referenced in section 7(1),
15 and special fireworks. Fireworks do not include the following
16 items:

17 (i) Model rockets.

18 (ii) Toy pistol caps.

19 (iii) Emergency signal flares.

20 (iv) Matches.

21 (v) Fixed ammunition for firearms.

22 (vi) Ammunition components intended for use in firearms,
23 muzzle loading cannons, or small arms.

24 (vii) Shells, cartridges, and primers for use in firearms,
25 muzzle loading cannons, or small arms.

26 (viii) Indoor pyrotechnics special effects material.

27 (ix) M-80s, cherry bombs, silver salutes, and any device

1 banned by the federal government.

2 (o) "Flitter sparkler" means a narrow paper tube filled with
3 pyrotechnic composition that produces color and sparks upon
4 ignition. Flitter sparklers do not use a fuse for ignition, but
5 rather are ignited by igniting the paper at 1 end of the tube.

6 (p) "Ground spinner" means a small spinning device that is
7 similar to wheels in design and effect when placed on the ground
8 and ignited and that produces a shower of sparks and color when
9 spinning.

10 (q) "Helicopter" or "aerial spinner" means a spinning device
11 that satisfies all of the following conditions:

12 (i) It consists of a tube not more than 1/2 inch in inside
13 diameter and contains not more than 20 grams of pyrotechnic
14 composition.

15 (ii) A propeller or blade device is attached.

16 (iii) It lifts into the air upon ignition, producing a visible
17 or audible effect at the height of flight.

18 (r) "Illuminating torch" means a cylindrical tube to which
19 all of the following apply:

20 (i) It contains not more than 100 grams of pyrotechnic
21 composition.

22 (ii) It produces, upon ignition, a colored fire.

23 (iii) It is either a spike, base, or handle type device.

24 (s) "Importer" means either of the following:

25 (i) A person who imports fireworks from a foreign country.

26 (ii) A person who brings or causes fireworks to be brought
27 within this state for subsequent sale.

1 (t) "Indoor pyrotechnics special effects material" means a
2 chemical material that is clearly labeled by the manufacturer as
3 suitable for indoor use as provided in national fire protection
4 association standard 1126 (2001 edition).

5 (u) "Interstate wholesaler" means a person who is engaged in
6 interstate commerce selling fireworks.

7 (v) "Manufacturer" means a person engaged in the manufacture
8 of fireworks.

9 (w) "Mine" or "shell" means a device to which all of the
10 following apply:

11 (i) It consists of a heavy cardboard or paper tube not more
12 than 2-1/2 inches in inside diameter, to which a wooden or
13 plastic base is attached.

14 (ii) It contains not more than 40 grams of pyrotechnic
15 composition.

16 (iii) It propels, upon ignition, stars, whistles, parachutes,
17 or any combinations of stars, whistles, and parachutes with the
18 tube remaining on the ground.

19 (x) "Missile-type rocket" means a device that is similar to
20 a sky rocket in size, composition, and effect and that uses fins
21 rather than a stick for guidance and stability.

22 (y) "Party popper" means a small plastic or paper item
23 containing not more than 16 milligrams of explosive composition
24 that is friction-sensitive. A string protruding from a party
25 popper is pulled to ignite it, expelling paper streamers and
26 producing a small report.

27 (z) "Person" means an individual, an association, an

1 organization, a limited liability company, or a corporation.

2 (aa) "Pyrotechnic composition" means a mixture of chemicals
3 that produces a visible or audible effect by combustion rather
4 than deflagration or detonation. A pyrotechnic composition will
5 not explode upon ignition unless severely confined.

6 (bb) "Responding fire department" means the paid fire
7 department or volunteer fire department that renders fire
8 protection services to a political subdivision of this state.

9 (cc) "Retail sales stand" means a temporary business site or
10 location where goods are to be sold.

11 (dd) "Retailer" means a person who purchases fireworks for
12 resale to consumers.

13 (ee) "Roman candle" means a device that consists of a heavy
14 paper or cardboard tube not more than 3/8 inch in inside diameter
15 and that contains not more than 20 grams of pyrotechnic
16 composition. Upon ignition, not more than 10 stars are
17 individually expelled at several second intervals.

18 (ff) "Sky rocket" means a device to which all of the
19 following apply:

20 (i) It consists of a tube that contains pyrotechnic
21 composition.

22 (ii) It contains a stick for guidance and stability.

23 (iii) It rises into the air upon ignition, producing a burst
24 of color or noise at the height of flight.

25 (gg) "Smoke device" means a tube or sphere containing
26 pyrotechnic composition that produces white or colored smoke upon
27 ignition as the primary effect.

1 (hh) "Snake" or "glow worm" means a pressed pellet of
2 pyrotechnic composition that produces a large, snake-like ash
3 upon burning that expands in length as the pellet burns but does
4 not contain mercuric thiocyanate.

5 (ii) "Snapper" means a small, paper wrapped item containing
6 a minute quantity of explosive composition coated on small bits
7 of sand that, when dropped, explodes, producing a small report.

8 (jj) "Special discharge location" means a location
9 designated for the discharge of consumer fireworks by individuals
10 in accordance with rules adopted under this act.

11 (kk) "Special fireworks" means fireworks designed primarily
12 to produce visible or audible effects by combustion,
13 deflagration, or detonation, including firecrackers containing
14 more than 130 milligrams of explosive composition, aerial shells
15 containing more than 40 grams of pyrotechnic composition, and
16 other exhibition display items that exceed the limits for
17 classification as consumer fireworks.

18 (ll) "Star" means a pellet of pressed pyrotechnic composition
19 that burns with bright color.

20 (mm) "State fire marshal" means the state fire marshal
21 appointed under section 1b of the fire prevention code, 1941 PA
22 205, MCL 29.1b.

23 (nn) "Trick match" means a kitchen or book match that has
24 been coated with a small quantity of explosive or pyrotechnic
25 composition. Upon ignition of the match, a small report or a
26 shower of sparks is produced.

27 (oo) "Trick noisemaker" means an item that produces a small

1 report intended to surprise the user.

2 (pp) "Wheel" means a pyrotechnic device to which all of the
3 following apply:

4 (i) It is attached to a post or tree by means of a nail or
5 string.

6 (ii) It contains not more than 6 driver units or tubes not
7 more than 1/2 inch in inside diameter containing not more than 60
8 grams of composition per driver unit.

9 (iii) It revolves, upon ignition, producing a shower of color
10 and sparks and may produce a whistling effect.

11 (qq) "Wholesaler" means a person who purchases fireworks for
12 resale to retailers.

13 Sec. 2. (1) A municipality, fair association, amusement
14 park, or other organization or group shall not publicly display
15 fireworks without first obtaining a permit for a supervised
16 public display of fireworks as prescribed in this section.

17 (2) An application under this section shall be submitted to
18 the local unit of government closest to the location where a
19 public display of fireworks is to be held on a form as approved
20 by the bureau not more than 5 days before the supervised public
21 display. The application form shall be accompanied by the fee as
22 determined by the bureau and shall contain all of the following
23 information in writing:

24 (a) The name of a competent operator who is to operate the
25 public display of fireworks.

26 (b) A brief resume of the operator who is to officiate at
27 the public display of fireworks.

1 (c) In the manner and form required by the bureau, proof
2 that the chief of the fire department of the municipality in
3 which the public display of fireworks is to be held approved the
4 qualified operator.

5 (3) A person who has a prior conviction for violating this
6 act or former chapter XXXIX of the Michigan penal code, 1931 PA
7 328, MCL 750.243a to 750.243e, shall not operate a public display
8 of fireworks for at least 1 year after that conviction.

9 (4) A display shall be located, discharged, or fired in a
10 manner approved as not hazardous to property or person, after
11 proper inspection, by the chief of the fire department of the
12 city or town in which the display is to be held or, in the case
13 of a display to be held outside the corporate limits of a city or
14 town, the township fire chief or the fire chief of the
15 municipality nearest the site proposed.

16 (5) The local unit of government that denies a permit shall
17 issue the denial in writing before the date designated on the
18 application as the date that the public display of fireworks is
19 to be held.

20 (6) A permit granted under this section is not transferable.

21 (7) A person shall not possess, transport, or deliver
22 special fireworks, except as authorized by permit under this
23 section. A person who violates this subsection is guilty of a
24 misdemeanor punishable by imprisonment for not more than 1 year
25 or a fine of not more than \$5,000.00, or both.

26 Sec. 3. (1) This act does not prohibit any of the following:

27 (a) A resident wholesaler, manufacturer, importer, or

1 distributor from selling any of the following:

2 (i) At wholesale, fireworks not prohibited by this act.

3 (ii) Consumer fireworks, if they are to be used on the
4 property of the purchaser, on the property of another person who
5 has given permission to use the consumer fireworks on that
6 person's property, or at a special discharge location as provided
7 in section 2(4).

8 (b) The use of fireworks by railroads or other
9 transportation agencies for signal purposes or illumination.

10 (c) The sale or use of blank cartridges for any of the
11 following:

12 (i) A show or theater.

13 (ii) Signal or ceremonial purposes in athletics or sports.

14 (iii) Use by military organizations.

15 (d) The intrastate sale of fireworks not approved for sale
16 in this state between interstate wholesalers.

17 (e) The possession, sale, or disposal of fireworks
18 incidental to the public display of class B fireworks by
19 wholesalers or other persons who possess a permit to possess,
20 store, and sell class B explosives from the bureau of alcohol,
21 tobacco, firearms and explosives of the United States department
22 of Justice.

23 (f) The use of indoor pyrotechnics special effects material
24 before an indoor or outdoor proximate audience.

25 (2) As used in this section, a resident wholesaler,
26 importer, or distributor is a person who satisfies all of the
27 following conditions:

1 (a) Is a resident of this state.

2 (b) Possesses for storage or resale fireworks approved or
3 not approved for sale in this state.

4 (c) Is engaged in the interstate sale of fireworks described
5 in subdivision (b) as an essential part of a business that is
6 located in a permanent structure and is open not less than 6
7 months each year.

8 (d) Has possession of a certificate of compliance issued by
9 the state fire marshal under section 5.

10 Sec. 4. (1) A retailer may sell consumer fireworks and items
11 referenced in section 7(1) from a tent under the following
12 conditions:

13 (a) The tent shall be no larger than 1,500 square feet.

14 (b) There shall be only 1 tent for each registration granted
15 under section 9(1).

16 (c) The tent shall not be located closer than 100 feet from
17 a permanent structure.

18 (d) A vehicle shall not be parked closer than 20 feet from
19 the edge of the tent.

20 (e) The tent shall be fire retardant.

21 (f) The sales site must comply with all applicable local
22 zoning and land use rules.

23 (g) Sales of fireworks shall be made from the tent for not
24 more than 45 days in a year.

25 (h) The weight of consumer fireworks in a tent may not
26 exceed 3,000 gross pounds of consumer fireworks.

27 (i) A retailer that legally operated a tent in 2006 may

1 continue operation in a tent in 2006 and the following years. A
2 registration under section 9(1) is required for operation in 2007
3 and following years. As used in this subdivision, a retailer
4 includes a resident wholesaler who supplied consumer fireworks to
5 an applicant for a tent registration in 2006.

6 (j) The retailer holds a valid registration under section
7 9(1).

8 (2) A retailer may sell consumer fireworks and items
9 referenced in section 7(1) only from a structure that meets the
10 requirements established by the bureau.

11 (3) A retailer who violates this section is guilty of a
12 misdemeanor punishable by imprisonment for not more than 1 year
13 or a fine of not more than \$5,000.00, or both.

14 (4) A retailer may sell consumer fireworks and items
15 referenced in section 7(1) from a structure that satisfies the
16 requirements promulgated by the bureau under this section and the
17 following conditions:

18 (a) The structure is a structure in which consumer fireworks
19 are sold and stored.

20 (b) The sales site complies with all applicable local zoning
21 and land use rules.

22 (c) The weight of consumer fireworks in the structure shall
23 not exceed 3,000 gross pounds of consumer fireworks.

24 (d) The retailer holds a valid registration under section
25 9(1).

26 (e) A retailer that sold consumer fireworks and operated
27 from a structure with a registration in 2006 may continue in

1 operation in the structure in 2007 and the following years. A
2 registration under section 9(1) is required for operation in 2007
3 and following years.

4 (5) The state fire marshal or an employee of the bureau
5 shall inspect tents and structures in which fireworks are sold.
6 The state fire marshal may delegate this duty to inspect to a
7 responding fire department with jurisdiction over the tent or
8 structure, subject to the policies and procedures of the state
9 fire marshal.

10 (6) A retailer shall file an application for each retail
11 location on a form to be provided by the state fire marshal.

12 (7) This act does not limit the quantity of items referenced
13 in section 7(1) that may be sold from any structure that complied
14 with a statute or the rules promulgated under that statute in
15 effect before the effective date of this act.

16 Sec. 5. (1) The state fire marshal shall remove, at the
17 expense of the owner, all stocks of fireworks or combustibles
18 possessed, transported, or delivered in violation of this act.

19 (2) The state fire marshal shall stop the shipments and sale
20 of fireworks, novelties, and trick noisemakers unless, prior to
21 shipment into this state for sale, the manufacturer, wholesaler,
22 importer, or distributor of the fireworks, novelties, and trick
23 noisemakers submits all of the following to the state fire
24 marshal:

25 (a) A complete description of each item proposed to be
26 shipped into this state.

27 (b) A written certification that the items are manufactured

1 in accordance with this act.

2 (c) An annual registration fee of \$1,000.00. The
3 registration fee shall be collected by the state fire marshal and
4 deposited in the fireworks safety fund created under section 13.
5 A manufacturer, wholesaler, importer, or distributor of
6 fireworks, novelties, and trick noisemakers shall submit a list
7 to the state fire marshal on or before June 1 of each year. The
8 list shall contain the name and address of each retail location
9 of each of the customers of the manufacturer, wholesaler,
10 importer, or distributor at which items referenced in section
11 7(1) will be sold. If upon inspection the state fire marshal
12 finds that this act has been complied with, an annual certificate
13 of compliance shall be issued to the manufacturer, wholesaler,
14 importer, or distributor. An annual certificate of compliance
15 shall not be granted for an application submitted after June 15
16 of a year and shall expire December 31 of the year in which the
17 certificate is issued. Each manufacturer, wholesaler, importer,
18 or distributor shall obtain a certificate of compliance. The
19 certificate is not transferable except to a subsequent owner or
20 operator of a business at the same location in accordance with
21 the policies and guidelines of the state fire marshal. A
22 certified copy of the certificate of compliance shall be posted
23 in each location where the items are offered for sale to the
24 public. If, upon inspection, the state fire marshal finds that
25 this act has not been complied with, the state fire marshal shall
26 refuse to issue a certificate of compliance and shall state the
27 reasons for the refusal. A copy of the order denying the issuance

1 of a certificate of compliance and the reasons shall be forwarded
2 to the manufacturer, wholesaler, importer, or distributor. The
3 state fire marshal may revoke any certificate of compliance
4 issued to any manufacturer, wholesaler, importer, or distributor
5 if the holder of the certificate has violated this act.

6 (3) All fireworks, novelties, and trick noisemakers shipped
7 into this state, or manufactured and sold in this state, shall
8 have distinctly and durably painted, stamped, printed, or marked
9 on the package, box, or container in which the items are enclosed
10 the exact number of pieces in the container.

11 (4) A manufacturer, wholesaler, importer, or distributor
12 shall not sell at wholesale, offer to sell at wholesale, or ship
13 or cause to be shipped into this state fireworks, novelties, or
14 trick noisemakers unless the manufacturer, wholesaler, importer,
15 or distributor has been issued and holds a valid certificate of
16 compliance issued under subsection (2). This subsection applies
17 to nonresidents and residents of this state.

18 (5) A person who violates subsection (3) or (4) is guilty of
19 a misdemeanor punishable by imprisonment for not more than 1 year
20 or a fine of not more than \$5,000.00, or both.

21 Sec. 6. (1) A retailer selling items referenced in section
22 7(1) at 1 or more temporary stands shall first obtain a fireworks
23 stand retail sales permit from the bureau. A person who violates
24 this subsection is guilty of a misdemeanor punishable by
25 imprisonment for not more than 1 year or a fine of not more than
26 \$5,000.00, or both.

27 (2) An application for a permit under this section shall be

1 made before June 1 of each year and in a form as determined by
2 the bureau and shall, at a minimum, include all of the following
3 information:

4 (a) The retailer's retail merchant certificate number or
5 proof of application for a certificate number.

6 (b) The location of each retail sales stand.

7 (3) Not more than 7 days after the receipt of an application
8 for a permit under this section, the bureau shall either issue
9 the permit or notify the applicant of the denial of the permit.

10 (4) The retailer shall pay to the bureau an annual permit
11 fee as determined by the bureau. If the bureau approves an
12 application for a permit under this section, the bureau shall
13 issue a permit to the retailer, which permit expires 1 year after
14 the date of issuance.

15 (5) The permit issued under this section shall be posted by
16 the retailer at the retail sales stand so that it is easily seen
17 by the public. However, the bureau's issuance of the permit does
18 not constitute approval of the fireworks offered for sale by the
19 retailer. The retailer is responsible for determining that all
20 fireworks that the retailer offers for sale conform to applicable
21 law.

22 (6) At each retail sales stand, the retailer shall provide
23 all of the following:

24 (a) A posted certificate of compliance, including a
25 descriptive list of approved fireworks.

26 (b) Subject to section 7(3), a salesperson who is 16 years
27 of age or older.

1 (7) Fireworks shall not be sold at retail from a motor
2 vehicle. As used in this subsection, "motor vehicle" means that
3 term as defined under section 33 of the Michigan vehicle code,
4 1949 PA 300, MCL 257.33.

5 (8) Fireworks, excluding those referenced in section 7(1),
6 shall not be sold from or stored at a temporary stand.

7 Sec. 7. (1) A person shall not sell at retail, offer for
8 sale at retail, or deliver the following items to a person less
9 than 18 years of age:

10 (a) Dipped sticks or wire sparklers. However, total
11 pyrotechnic composition may not exceed 100 grams per item. Dipped
12 sticks and wire sparklers containing chlorate or perchlorate
13 salts shall not exceed 5 grams in total composition per item.

14 (b) Cylindrical fountains.

15 (c) Cone fountains.

16 (d) Illuminating torches.

17 (e) Wheels.

18 (f) Ground spinners.

19 (g) Flitter sparklers.

20 (h) Snakes or glow worms.

21 (i) Smoke devices.

22 (j) Trick noisemakers, which include the following:

23 (i) Party poppers.

24 (ii) Booby traps.

25 (iii) Snappers.

26 (iv) Trick matches.

27 (v) Cigarette loads.

1 (vi) Auto burglar alarms.

2 (2) A retailer or wholesaler of consumer fireworks may sell
3 consumer fireworks to a person 18 years of age or older.

4 (3) An individual who sells consumer fireworks shall be 18
5 years of age or older.

6 (4) An individual who sells an item set forth in subsection
7 (1) shall be 16 years of age or older.

8 (5) A person who violates this section is guilty of a
9 misdemeanor punishable by imprisonment for not more than 1 year
10 or a fine of not more than \$5,000.00, or both.

11 Sec. 8. (1) Each interstate wholesaler shall keep a record
12 of each sale of special fireworks. This record shall include all
13 of the following information:

14 (a) The purchaser's name.

15 (b) The purchaser's address.

16 (c) The date of the sale.

17 (2) A record required under this section shall be kept for
18 not less than 3 years and shall be available for inspection by
19 the fire marshal.

20 (3) A person who violates this section is guilty of a
21 misdemeanor punishable by imprisonment for not more than 1 year
22 or a fine of not less than \$5,000.00, or both.

23 Sec. 9. (1) A retailer shall not sell consumer fireworks
24 until the retailer has satisfied all of the following
25 requirements:

26 (a) Filed the application required under section 4 with the
27 bureau for each location from which the retailer proposes to sell

1 the consumer fireworks, which must be filed on an annual basis.

2 (b) Paid an accompanying registration fee as follows:

3 (i) \$1,000.00 for the first location, if a fee under section
4 5(2)(c) has not been paid.

5 (ii) \$500.00 for each additional sales location in a tent.

6 (iii) \$200.00 for each additional sales location in a
7 structure from which the retailer proposes to sell the consumer
8 fireworks.

9 (c) Is authorized under subsection (2).

10 (2) Upon receipt of the completed application form under
11 subsection (1), the accompanying fee, and, if required, the
12 affidavit under subsection (3), the bureau shall issue a
13 certificate of compliance to the retailer for each sales
14 location.

15 (3) A person who has previously sold consumer fireworks from
16 a structure or tent and is seeking a certificate of compliance
17 authorizing the sale of consumer fireworks at retail from that
18 structure or from a tent under section 4 shall submit all of the
19 following with the application:

20 (a) An affidavit executed by a responsible party with
21 personal knowledge, establishing that consumer fireworks were
22 sold at retail or wholesale from a structure at the same location
23 or from a tent as of a date set forth in section 4.

24 (b) Proof of sales of consumer fireworks from that location.

25 (4) A person shall not sell consumer fireworks at retail if
26 a certificate of compliance from the bureau has not been issued
27 for the location showing registration under subsection (1). A

1 person who violates this subsection is guilty of a misdemeanor
 2 punishable by imprisonment for not more than 1 year or a fine of
 3 not more than \$5,000.00, or both.

4 (5) A certificate of compliance issued to a retailer of
 5 consumer fireworks is not transferable except to a subsequent
 6 owner or operator of a business at the same location in
 7 accordance with the policies and guidelines of the state fire
 8 marshal.

9 Sec. 10. (1) A user fee, known as the fireworks safety fee,
 10 is imposed on retail transactions made in this state of
 11 fireworks, in accordance with section 11.

12 (2) A person who acquires fireworks in a retail transaction
 13 is liable for the fireworks safety fee on the transaction and,
 14 except as otherwise provided in this act, shall pay the fireworks
 15 safety fee to the retailer as a separate added amount to the
 16 consideration in the transaction. The retailer shall collect the
 17 fireworks safety fee as an agent for the state.

18 (3) The fireworks safety fee shall be deposited in the
 19 fireworks safety fund created in section 13.

20 Sec. 11. (1) The fireworks safety fee is measured by the
 21 gross retail income received by a retail merchant in a retail
 22 unitary transaction of fireworks and is imposed at the following
 23 rates:

24	FIREWORKS	GROSS RETAIL INCOME
25	SAFETY	FROM THE
26	FEE	RETAIL UNITARY

	TRANSACTION			
1				
2	\$ 0		less than	\$ 0.10
3	\$ 0.01	at least \$ 0.10	but less than	\$ 0.30
4	\$ 0.02	at least \$ 0.30	but less than	\$ 0.50
5	\$ 0.03	at least \$ 0.50	but less than	\$ 0.70
6	\$ 0.04	at least \$ 0.70	but less than	\$ 0.90
7	\$ 0.05	at least \$ 0.90	but less than	\$ 1.10

8 (2) On a retail unitary transaction in which the gross
9 retail income received by the retail merchant is \$1.10 or more,
10 the fireworks safety fee is 5% of that gross retail income.

11 (3) If the fireworks safety fee computed under subsection
12 (1) results in a fraction of 1/2 cent or more, the amount of the
13 fireworks safety fee shall be rounded to the next additional
14 cent.

15 Sec. 12. An individual retailer or an employee, officer, or
16 member of a corporate or partnership retailer has a duty to remit
17 the fireworks safety fee as described in section 10 to the
18 department of treasury, holds the fireworks safety fees collected
19 in trust for the state, and is personally liable for the payment
20 of the fireworks safety fee money to this state.

21 Sec. 13. (1) The fireworks safety fund is created within the
22 state treasury.

23 (2) The state treasurer may receive money or other assets
24 from any source for deposit into the fund. The state treasurer
25 shall direct the investment of the fund. The state treasurer
26 shall credit to the fund interest and earnings from fund
27 investments.

1 (3) Money in the fund at the close of the fiscal year shall
2 remain in the fund and shall not lapse to the general fund.

3 (4) The commission shall expend money from the fund, upon
4 appropriation, only to carry out the purposes of this act.

5 Sec. 14. The bureau shall promulgate rules under the
6 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
7 24.328, to implement this act, including, but not limited to, all
8 of the following:

9 (a) Establish fees for permits and certificates.

10 (b) Create uniform applications and other forms for
11 dissemination to and use by local units of government under this
12 act.

13 (c) Establish the criteria to be used by local units of
14 government and fire chiefs in deciding whether to grant or deny
15 permits under this act.

16 (d) Procedures for the collection of application fees and
17 fireworks safety fees.

18 (e) Enforcement of regulatory duties.

19 (f) Plan for the enforcement of age limitations.

20 (g) Building standards and other specifications for the
21 storage of fireworks.

22 (h) Any other matter that the bureau determines will assist
23 the bureau in the enforcement of this act.

24 Sec. 15. (1) A person shall not ignite, discharge, or use
25 consumer fireworks at a site other than a special discharge
26 location, the property of the person, or the property of another
27 person who has given permission to use the consumer fireworks on

1 his or her premises. Except as otherwise provided in this
2 subsection, a person who violates this subsection is responsible
3 for a state civil infraction and may be ordered to pay a civil
4 fine of not more than \$500.00. However, a person who commits a
5 second or subsequent violation of this subsection within 5 years
6 of a prior violation of this subsection is guilty of a
7 misdemeanor punishable by imprisonment for not more than 60 days
8 or a fine of not more than \$500.00, or both.

9 (2) A person who is less than 18 years of age shall not
10 possess or use a firework when a person who is not less than 18
11 years of age is present and responsible at the location of the
12 possession or use of the firework. Except as otherwise provided
13 in this subsection, a person who violates this subsection is
14 responsible for a state civil infraction and may be ordered to
15 pay a civil fine of not more than \$500.00.

16 (3) Except as otherwise provided in this subsection, a
17 person shall not ignite, discharge, or use consumer fireworks
18 before 9 a.m. or after 11 p.m. However, on a Saturday, Sunday, or
19 a legal holiday, a person shall not ignite, discharge, or use
20 consumer fireworks before 9 a.m. or after 12 midnight. A person
21 who violates this subsection is responsible for a state civil
22 infraction and may be ordered to pay a civil fine of not more
23 than \$500.00. However, a person who commits a second or
24 subsequent violation of this subsection within 5 years of a prior
25 violation of this subsection is guilty of a misdemeanor
26 punishable by imprisonment for not more than 60 days or a fine of
27 not more than \$500.00, or both.

1 (4) If a person violates this act and by that violation
2 causes damage to the property of another person, the person is
3 guilty of a misdemeanor punishable by imprisonment for not more
4 than 1 year or a fine of not more than \$5,000.00, or both.

5 (5) If a person violates this act and by that violation
6 causes serious impairment of a body function of another person,
7 the person is guilty of a felony punishable by imprisonment for
8 not more than 2 years or a fine of not more than \$2,000.00, or
9 both. As used in this subsection, "serious impairment of a body
10 function" means that term as defined in section 58c of the
11 Michigan vehicle code, 1949 PA 300, MCL 257.58c.

12 (6) If a person violates this act and by that violation
13 causes the death of another person, the person is guilty of a
14 felony punishable by imprisonment for not more than 5 years or a
15 fine of not more than \$5,000.00, or both.

16 (7) A person who fails to collect or remit a fireworks
17 safety fee as required under section 10 is guilty of a felony
18 punishable by imprisonment for not more than 5 years or a fine of
19 not more than \$5,000.00, or both.

20 Enacting section 1. This act does not take effect unless all
21 of the following bills of the 93rd Legislature are enacted into
22 law:

23 (a) Senate Bill No.____ or House Bill No. 6411(request no.
24 07010'06 a).

25 (b) Senate Bill No.____ or House Bill No. 6413(request no.
26 07177'06).