

HOUSE BILL No. 5961

October 17, 2012, Introduced by Rep. LeBlanc and referred to the Committee on Regulatory Reform.

A bill to amend 2011 PA 256, entitled
"Michigan fireworks safety act,"
by amending sections 4 and 5 (MCL 28.454 and 28.455), section 4 as
amended by 2012 PA 257.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) A person shall not sell consumer fireworks unless
2 the person annually obtains and maintains a consumer fireworks
3 certificate from the department under this section. A person who
4 knows, or should know, that he or she is required to comply with
5 this subsection and who fails or neglects to do so is guilty of a
6 misdemeanor punishable by imprisonment for not more than 2 years or
7 a fine, or both, with the fine as follows:

8 (a) For a first violation of this subsection, not more than
9 \$5,000.00.

1 (b) For a second violation of this subsection, not more than
2 \$20,000.00.

3 (c) For a third or subsequent violation of this subsection,
4 not more than \$40,000.00.

5 (2) An application for a consumer fireworks certificate shall
6 meet all of the following requirements:

7 (a) Before January 1, 2012, the application shall be submitted
8 not less than 90 days before the applicant sells consumer
9 fireworks.

10 (b) Beginning January 1, 2012, the application shall be
11 submitted no later than April 1 of each year in which consumer
12 fireworks are to be sold.

13 (c) The application shall list the name and address of each
14 retail location from which consumer fireworks are to be sold.

15 (d) Until January 1, 2014, the application shall be
16 accompanied by a fee of \$1,000.00 for a certificate for each retail
17 location that is a permanent building or structure or, **UNTIL**
18 **JANUARY 1, 2014**, \$600.00 for each retail location that is not a
19 permanent building or structure. Until January 1, 2014, the
20 fireworks certificate fee required to be paid for a retail location
21 that is not a permanent building or structure shall not exceed 60%
22 of the fireworks certificate fee for a retail location that is a
23 permanent building or structure.

24 (e) The application shall be accompanied by a copy of the
25 applicant's current sales tax license, including the applicant's
26 account number, issued by the department of treasury for each
27 retail location where consumer fireworks are to be sold by the

1 applicant.

2 (3) A consumer fireworks certificate issued under this section
3 is valid from the date of issue until April 30 of the year after it
4 was issued. A person may renew a consumer fireworks certificate for
5 a retail location by making application in the same manner as
6 provided under subsection (2). However, the department shall not
7 issue a renewal consumer fireworks certificate unless the
8 department determines that the applicant properly remitted all of
9 the fireworks safety fees required to be paid in the preceding
10 year. The department shall provide to the department of treasury
11 the sales tax license information received from the applicant and
12 any additional information as may be necessary to allow the
13 department of treasury to confirm that each sales tax license
14 submitted by the applicant is current and valid. The department
15 shall enter into an agreement with the department of treasury under
16 section 28(1) of 1941 PA 122, MCL 205.28, that will allow the
17 department of treasury to provide that information to the
18 department. The department shall not issue an original or renewal
19 consumer fireworks certificate to an applicant until the department
20 of treasury has confirmed to the department that each sales tax
21 license submitted by the applicant is current and valid, and that
22 the applicant is otherwise eligible to obtain a consumer fireworks
23 certificate under this act.

24 (4) Not more than 30 days after an application is submitted to
25 the department under this section, the department shall issue or
26 deny issuance of a consumer fireworks certificate to the applicant
27 and, if issuance is denied, shall indicate to the applicant the

1 reason for denial.

2 (5) If the department denies issuance of a consumer fireworks
3 certificate under this section, the applicant may cure any defect
4 of the application within 45 days after the denial without paying
5 an additional fee. The department shall not unreasonably delay or
6 deny an application under this section.

7 (6) A consumer fireworks certificate is transferable upon
8 approval by the department and the payment of a \$25.00 transfer
9 fee. However, the department shall not approve the transfer of a
10 consumer fireworks certificate unless the transferee satisfies
11 eligibility requirements for an original consumer fireworks
12 certificate under this act.

13 (7) The holder of a consumer fireworks certificate shall
14 prominently display the original or copy of the certificate in the
15 appropriate retail location. A person that violates this subsection
16 is responsible for a civil fine of \$100.00. Each day that the
17 consumer fireworks certificate is not displayed as required under
18 this subsection is a separate violation.

19 (8) The department shall not issue a consumer fireworks
20 certificate to a person that is ineligible under this act.

21 (9) The face of the consumer fireworks certificate shall
22 indicate the location or address for which it was issued.

23 (10) Fees collected under this section shall be deposited in
24 the fireworks safety fund.

25 Sec. 5. (1) Consumer fireworks shall only be sold from a
26 retail location if all of the following applicable conditions are
27 met:

1 (a) Except as provided in subdivision (b), a retail location
2 satisfies the applicable requirements of NFPA 101 and NFPA 1124 not
3 in conflict with this act.

4 (b) Beginning ~~1 year after the effective date of this act~~
5 **JANUARY 1, 2012**, a permanent building or structure shall be
6 equipped with a fire suppression system in compliance with NFPA
7 1124.

8 (c) The retailer at that retail location is licensed under
9 section 3 of the general sales tax act, 1933 PA 167, MCL 205.53.

10 (d) The retailer has a valid federal taxpayer identification
11 number issued by the federal department of the treasury, internal
12 revenue service. This requirement does not apply to a retailer that
13 is a sole proprietorship.

14 **(E) BEGINNING JANUARY 1, 2014, THE RETAIL LOCATION IS A**
15 **PERMANENT BUILDING OR STRUCTURE.**

16 (2) A person that knows, or should know, that he or she is
17 required to comply with subsection (1) and who fails or neglects to
18 do so is responsible for a civil fine of \$2,500.00 for each
19 violation. Each day that a person is in noncompliance constitutes a
20 separate violation.

21 (3) During periods when consumer fireworks are sold, each
22 retail location selling consumer fireworks either shall be added as
23 an additional insured, or public liability and product liability
24 insurance coverage shall be obtained and maintained, in an amount
25 not less than \$10,000,000.00 per occurrence. A person that knows,
26 or should know, that he or she is required to comply with this
27 subsection and who fails or neglects to do so is liable for a civil

1 fine of not more than \$5,000.00.