

HOUSE BILL No. 5816

May 29, 1990, Introduced by Reps. Barns, DeMars, Pitoniak, Willis Bullard, Spaniola, Rocca, Hoffman and Dolan and referred to the Committee on Judiciary.

A bill to amend sections 243b, 243c, 243d, and 243e of Act No. 328 of the Public Acts of 1931, entitled "The Michigan penal code," section 243d as amended by Act No. 422 of the Public Acts of 1980, being sections 750.243b, 750.243c, 750.243d, and 750.243e of the Michigan Compiled Laws; and to add sections 243f and 243g.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 243b, 243c, 243d, and 243e of Act
2 No. 328 of the Public Acts of 1931, section 243d as amended by
3 Act No. 422 of the Public Acts of 1980, being sections 750.243b,
4 750.243c, 750.243d, and 750.243e of the Michigan Compiled Laws,
5 are amended and sections 243f and 243g are added to read as
6 follows:

1 Sec. 243b. (1) ~~The council or commission of a city or~~
2 ~~village or the township board of a township, upon~~ UPON
3 application in writing ~~—~~ on forms provided by the ~~director of~~
4 ~~the department of state police~~ STATE FIRE MARSHAL, A GOVERNING
5 BODY may grant a permit ~~for the~~ TO A PERSON WHO IS IN COMPLI-
6 ANCE WITH THIS CHAPTER ALLOWING THAT PERSON TO POSSESS AND use
7 ~~of~~ fireworks ~~otherwise~~ prohibited by section 243a ~~—~~ within
8 ~~their political jurisdiction~~ THAT MUNICIPALITY, IF THOSE FIRE-
9 WORKS ARE manufactured OR USED for outdoor pest control, ~~or~~
10 agricultural purposes, or for public display by municipalities.
11 ~~—, fair associations, amusement parks, or other organizations or~~
12 ~~groups of individuals approved by the city, village, or township~~
13 ~~authority, if the applicable provisions of this act are complied~~
14 ~~with.~~ The ~~permits~~ PERMIT shall be on ~~forms~~ A FORM provided
15 by the ~~director of the department of state police~~ STATE FIRE
16 MARSHAL. After a permit has been granted, ~~sales~~ THE SALE, pos-
17 session, PURCHASE, USE, STORAGE, or transportation of fireworks
18 SHALL BE MADE ONLY for the purposes described in the permit.
19 ~~only may be made.~~ A permit granted under this subsection
20 ~~shall~~ IS not ~~be~~ transferable. ~~—, nor shall a~~ A permit SHALL
21 NOT be issued to a person under the age of 18 years.

22 (2) ~~The council or commission of a city or village or the~~
23 ~~township board of a township, upon~~ UPON application in writing
24 ~~—, may grant a permit,~~ on forms provided by the ~~director of the~~
25 ~~department of state police~~ STATE FIRE MARSHAL, A GOVERNING BODY
26 MAY GRANT A PERMIT to a resident wholesale dealer or jobber to
27 have in his OR HER possession within the ~~political jurisdiction~~

1 MUNICIPALITY, fireworks ~~otherwise~~ prohibited by section 243a,
2 for sale only to holders of permits as provided in ~~this section~~
3 SUBSECTION (1). A permit granted under this subsection is not
4 transferable. ~~, nor shall a~~ A permit SHALL NOT be issued to a
5 person ~~under the age of 18 years~~ WHO IS LESS THAN 18 YEARS OF
6 AGE. A PERMIT ISSUED UNDER THIS SUBSECTION IS VALID FOR 1 YEAR
7 FROM THE DATE OF ISSUE.

8 (3) Before a permit for a ~~pyrotechnic~~ FIREWORKS display
9 UNDER SUBSECTION (1) is issued, the person ~~, firm, or corpora-~~
10 ~~tion making application therefor~~ APPLYING FOR THE PERMIT shall
11 furnish proof of financial responsibility by a bond or insurance
12 in an amount ~~deemed~~ CONSIDERED necessary by the ~~local govern-~~
13 ~~ing authority~~ GOVERNING BODY to satisfy claims for damages to
14 property or personal injuries arising out of an act or omission
15 on the part of the person ~~, firm, or corporation,~~ or an agent
16 or employee ~~thereof,~~ OF THE PERSON in the amount, character,
17 and form the ~~local authority~~ GOVERNING BODY determines neces-
18 sary for the protection of the public.

19 (4) A permit shall not be issued under this act to a
20 ~~nonresident~~ person ~~, firm, or corporation for conduct of a~~
21 ~~pyrotechnic~~ WHO IS NOT A RESIDENT OF THIS STATE TO CONDUCT A
22 FIREWORKS display in this state until the person ~~, firm, or~~
23 ~~corporation~~ has appointed in writing a resident member of the
24 bar of this state or a resident agent to be ~~his~~ THE PERSON'S
25 legal representative upon whom all process in an action or pro-
26 ceeding against ~~him~~ THE PERSON may be served.

1 (5) The ~~local governing authority~~ GOVERNING BODY shall
2 rule on the competency and qualifications AS FURNISHED ON THE
3 APPLICATION FORMS of operators of ~~pyrotechnic~~ FIREWORKS dis-
4 plays ~~, as the operator has furnished in his application form,~~
5 and on the time, place, and safety aspects of the displays before
6 granting permits.

7 (6) A PERSON CONDUCTING A FIREWORKS DISPLAY ALLOWED UNDER
8 THIS SECTION SHALL ENSURE THAT THE DISPLAY COMPLIES WITH THE
9 "STANDARD FOR PUBLIC DISPLAY OF FIREWORKS", NATIONAL FIRE PROTEC-
10 TION ASSOCIATION PAMPHLET NO. 1123, 1982 EDITION.

11 (7) A PERSON WHO IS NOT A RESIDENT OF THIS STATE AND WHO
12 SHIPS FIREWORKS INTO THIS STATE DIRECTLY TO A CONSUMER SHALL
13 APPLY IN WRITING TO THE STATE FIRE MARSHAL FOR A CERTIFICATE
14 ALLOWING THE SHIPMENT OF THOSE FIREWORKS INTO THIS STATE. THE
15 APPLICATION SHALL BE MAILED TO THE STATE FIRE MARSHAL AT LEAST 45
16 DAYS BEFORE THE PROPOSED SHIPMENT. IF THE STATE FIRE MARSHAL
17 DETERMINES THAT THE SHIPMENT OF FIREWORKS BY THE NONRESIDENT
18 SHIPPER WILL COMPLY WITH THIS CHAPTER, THE STATE FIRE MARSHAL
19 SHALL ISSUE A CERTIFICATE ALLOWING THE SHIPMENT OF FIREWORKS INTO
20 THIS STATE. EACH CERTIFICATE SHALL BE NUMBERED TO IDENTIFY THE
21 NONRESIDENT SHIPPER AND SHALL NOT BE VALID FOR MORE THAN 1 YEAR
22 FROM THE DATE OF ISSUE. THE FEE FOR THE CERTIFICATE REQUIRED
23 UNDER THIS SUBSECTION SHALL BE \$500.00. THE FEE FOR THE CERTIFI-
24 CATE SHALL BE PAID AT THE TIME THE NONRESIDENT SHIPPER APPLIES
25 FOR THE CERTIFICATE. A CERTIFICATE MAY BE REVOKED BY THE STATE
26 FIRE MARSHAL IF THE STATE FIRE MARSHAL HAS REASONABLE CAUSE TO
27 BELIEVE THAT THE SALE OR SHIPMENT OF FIREWORKS IS IN VIOLATION OF

1 THIS ACT. BEGINNING OCTOBER 1, 1988, THE FEES REQUIRED IN THIS
2 SUBSECTION SHALL BE ADJUSTED EACH YEAR PURSUANT TO THE ANNUAL
3 AVERAGE PERCENTAGE INCREASE OR DECREASE IN THE DETROIT CONSUMER
4 PRICE INDEX--ALL ITEMS. THE ADJUSTMENT SHALL BE MADE BY MULTI-
5 PLYING THE ANNUAL AVERAGE PERCENTAGE INCREASE OR DECREASE IN THE
6 DETROIT CONSUMER PRICE INDEX FOR THE PRIOR CALENDAR YEAR BY THE
7 CURRENT FEE AS ADJUSTED BY THIS SUBSECTION. THE PRODUCT SHALL BE
8 ADDED TO THE CURRENT FEE AS ADJUSTED BY THIS SUBSECTION AND THEN
9 ROUNDED OFF TO THE NEAREST HALF DOLLAR WHICH SHALL BE THE NEW
10 FEE. HOWEVER, IF THERE IS A MATERIAL CHANGE IN THE LIST OF ITEMS
11 WHICH CONSTITUTE THE DETROIT CONSUMER PRICE INDEX--ALL ITEMS, THE
12 FEES SHALL REMAIN AT THE LEVEL PROVIDED FOR IMMEDIATELY PRECEDING
13 THE MATERIAL CHANGE. THE FEES COLLECTED UNDER THIS SUBSECTION
14 SHALL BE DEPOSITED IN THE GENERAL FUND OF THIS STATE.

15 (8) THE NONRESIDENT SHIPPER OF FIREWORKS DESCRIBED IN SEC-
16 TION 243A(3) OR (4) INTO THIS STATE SHALL DISPLAY THE CERTIFICATE
17 NUMBER ISSUED TO THE NONRESIDENT SHIPPER ON THE OUTSIDE OF EACH
18 PACKAGE CONTAINING FIREWORKS. IF THE NONRESIDENT SHIPPER FAILS
19 TO DISPLAY THE CERTIFICATE NUMBER OR THE CERTIFICATE HAS BEEN
20 REVOKED BY THE STATE FIRE MARSHAL, THE SHIPMENT MAY BE CONFIS-
21 CATED BY A LAW ENFORCEMENT OFFICER. A SHIPMENT OF FIREWORKS
22 DIRECTLY TO THE STATE FIRE MARSHAL IS EXEMPT FROM THE REQUIRE-
23 MENTS OF THIS SUBSECTION.

24 (9) A PERSON WHO IS NOT A RESIDENT OF THIS STATE SHALL NOT
25 SHIP FIREWORKS FOR WHICH A PERMIT IS REQUIRED UNDER
26 SECTION 243B(1) OR (2) TO A PERSON WHO DOES NOT HOLD A PERMIT.

1 Sec. 243c. (1) ~~Transportation~~ INTRASTATE TRANSPORTATION
2 of fireworks, ~~intrastate~~ FOR WHICH A PERMIT IS REQUIRED UNDER
3 THIS ACT, shall be made IN COMPLIANCE WITH THE "CODE FOR THE MAN-
4 UFACTURE, TRANSPORTATION, AND STORAGE OF FIREWORKS," NATIONAL
5 FIRE PROTECTION ASSOCIATION PAMPHLET NO. 1124, 1984 EDITION.

6 (2) A LICENSED DRIVER OR QUALIFIED REPRESENTATIVE OF THE
7 CARRIER OPERATING THE VEHICLE TRANSPORTING FIREWORKS IS IN COM-
8 PLIANCE WITH THE AGE REQUIREMENT OF THIS SECTION IF HE OR SHE IS
9 18 YEARS OF AGE OR OLDER. ~~only with the permits provided for in~~
10 ~~this act and as follows:~~

11 ~~(a) In accordance with United States department of transpor-~~
12 ~~tation regulations for transportation of explosives and other~~
13 ~~dangerous articles by motor, rail, and water, including specifi-~~
14 ~~cations for shipping containers.~~

15 ~~(b) In nonpassenger carrying vehicles, in charge of a compe-~~
16 ~~tent driver not less than 18 years of age, which are equipped~~
17 ~~with a 15 pound carbon dioxide or a 10 pound dry chemical fire~~
18 ~~extinguisher, and in or near which smoking shall be prohibited~~
19 ~~while loading, unloading, or transporting fireworks.~~

20 Sec. 243d. ~~The storage of fireworks at the site of a~~
21 ~~wholesaler, dealer, or jobber, except for a retailer who has~~
22 ~~goods on hand for sale to the public in a supervised display~~
23 ~~area, shall be as follows:~~ FIREWORKS DESCRIBED IN SECTION
24 243A(3) AND (4) SHALL BE STORED AND DISPLAYED PURSUANT TO RULES
25 PROMULGATED BY THE STATE FIRE MARSHAL. ALL OTHER FIREWORKS SHALL
26 BE STORED PURSUANT TO THE "CODE FOR THE MANUFACTURE,
27 TRANSPORTATION, AND STORAGE OF FIREWORKS," NATIONAL FIRE

1 PROTECTION ASSOCIATION PAMPHLET NO. 1124, 1984 EDITION. THE
 2 STORAGE LOCATION OF FIREWORKS SHALL BE APPROVED BY THE GOVERNING
 3 BODY.

4 ~~(a) In a 1 story, noncombustible building without a base~~
 5 ~~ment, which building is weather resistant, well ventilated, and~~
 6 ~~equipped with a strong door kept securely locked except when open~~
 7 ~~for business.~~

8 ~~(b) The location of the storage building shall be approved~~
 9 ~~by the local governing authority having jurisdiction, and shall~~
 10 ~~be located not less than the following distances from inhabited~~
 11 ~~buildings, passenger railroads, and public highways according to~~
 12 ~~the number of pounds of fireworks stored, rounded to the nearest~~
 13 ~~pound.~~

14	Net Weight of	Distance From		Distance From	
15	Fireworks	Passenger Railways		Inhabited Buildings	
16		and Public Highways			
17	-	Class C	Class B	Class C	Class B
18		Fireworks	Fireworks	Fireworks	Fireworks
19	Pounds	Feet	Feet	Feet	Feet
20	100 or less	25	200	50	200
21	101 to 200	30	200	60	200
22	201 to 400	35	200	70	200
23	401 to 600	40	200	80	200
24	601 to 800	45	200	90	252
25	801 to 1,000	50	200	100	292
26	1,001 to 2,000	58	230	115	459

1	2,00+ to 3,000	62	296	+24	592
2	3,00+ to 4,000	65	352	+30	704
3	4,00+ to 5,000	68	400	+35	800
4	5,00+ to 6,000	70	44+	+39	882
5	6,00+ to 8,000	73	509	+40	+7,018
6	8,00+ to 10,000	75	565	+50	+7,129
7	10,00+ to 15,000	80	668	+59	+7,335
8	15,00+ to 20,000	83	745	+65	+7,490
9	20,00+ to 30,000	87	863	+74	+7,725
10	30,00+ to 40,000	90	953	+80	+7,906
11	40,00+ to 50,000	93	+7,030	+85	2,060
12	50,00+ to 60,000	95	+7,095	+89	2,190
13	60,00+ to 80,000	98	+7,205	+95	2,410
14	80,00+ to 100,000	+00	+7,300	200	2,600
15	+00,00+ to 150,000	+05	+7,488	209	2,975
16	+51,00+ to 200,000	+08	+7,638	215	3,275
17	200,00+ or more	+10	+7,765	220	3,530

18 ~~(c) A person shall not cause or allow smoking, matches, open~~
19 ~~flames, spark producing devices, or firearms inside of or within~~
20 ~~50 feet of a building used for the storage of fireworks. A~~

21 ~~person shall not store combustible materials within 50 feet of a~~
22 ~~building used for the storage of fireworks.~~

23 ~~(d) The interior of a building used for the storage of fire~~
24 ~~works shall be kept clean and free from debris and empty~~
25 ~~containers. A person shall not use a building used for the stor~~
26 ~~age of fireworks for the storage of any metal tools or any~~
27 ~~commodity other than fireworks.~~

1 ~~(e) A person shall not provide a building used for the~~
2 ~~storage of fireworks with heat or lights, except that if lights~~
3 ~~are necessary, an electric safety flashlight or safety lantern~~
4 ~~shall be used.~~

5 ~~(f) A building used for the storage of fireworks shall bear~~
6 ~~lettering on each side and top in letters not less than 4 inches~~
7 ~~high, the words "explosives keep fire away".~~

8 ~~(g) A building used for the storage of fireworks shall be~~
9 ~~under the supervision of a competent person, who shall be not~~
10 ~~less than 18 years of age.~~

11 ~~(h) In addition to the requirements of subdivision (b),~~
12 ~~salutes that do not qualify as class C fireworks shall be consid-~~
13 ~~ered to be hazardous material and shall be stored in accordance~~
14 ~~with rules for the storage and handling of hazardous material~~
15 ~~promulgated under section 3c of Act No. 207 of the Public Acts~~
16 ~~of 1941, as amended, being section 29.3c of the Michigan Compiled~~
17 ~~Laws.~~

18 Sec. 243e. (1) ~~Any~~ EXCEPT AS PROVIDED IN SUBSECTION (2),
19 A person ~~, firm, copartnership or corporation,~~ who violates
20 ~~any of the provisions of sections 243a to 243d, or who violates~~
21 ~~the terms of any permit issued thereunder,~~ THIS CHAPTER is
22 guilty of a misdemeanor.

23 (2) A PERSON WHO SELLS, PURCHASES, POSSESSES, USES, OR
24 TRANSPORTS FIRECRACKERS CONTAINING MORE THAN 130 MILLIGRAMS OF
25 EXPLOSIVE COMPOSITION IN THIS STATE WITHOUT A PERMIT IS GUILTY OF
26 A FELONY, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS,
27 OR A FINE OF NOT MORE THAN \$10,000.00, OR BOTH.

1 SEC. 243F. A PERSON WHO MANUFACTURES FIREWORKS IN THIS
2 STATE SHALL COMPLY WITH THE "CODE FOR THE MANUFACTURING, TRANS-
3 PORTATION, AND STORAGE OF FIREWORKS," NATIONAL FIRE PROTECTION
4 ASSOCIATION PAMPHLET NO. 1124, 1984 EDITION.

5 SEC. 243G. NOTHING IN THIS CHAPTER PROHIBITS A GOVERNING
6 BODY FROM REGULATING FIREWORKS IN A MANNER NOT INCONSISTENT WITH
7 THIS CHAPTER.