

# HOUSE BILL No. 4310

February 15, 1991, Introduced by Reps. Barns, Gire, Willis Bullard, Dolan, Middleton, Hertel, Olshove and Dobronski 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~~ UNDER section 243a ~~,~~  
8 within ~~their political jurisdiction~~ THAT MUNICIPALITY, IF THOSE  
9 FIREWORKS 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~~ WHO IS LESS  
22 THAN 18 YEARS OF AGE.

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

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

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

20 (4) A permit shall not be issued under this act to a  
21 ~~nonresident~~ person ~~, firm, or corporation for conduct of a~~  
22 ~~pyrotechnic~~ WHO IS NOT A RESIDENT OF THIS STATE TO CONDUCT A  
23 FIREWORKS display in this state until the person ~~, firm, or~~  
24 ~~corporation~~ has appointed in writing a resident member of the  
25 bar of this state or a resident agent to be ~~his~~ THE PERSON'S  
26 legal representative upon whom all process in an action or  
27 proceeding 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, 1991, 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) A NONRESIDENT WHO SHIPS FIREWORKS DESCRIBED IN SECTION  
16 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 SUBSECTION (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	<del>Net Weight of</del>	<del>Distance From</del>		<del>Distance From</del>	
15	<del>Fireworks</del>	<del>Passenger Railways</del>		<del>Inhabited Buildings</del>	
16		<del>and Public Highways</del>			
17	<del>-</del>	<del>Class C</del>	<del>Class B</del>	<del>Class C</del>	<del>Class B</del>
18		<del>Fireworks</del>	<del>Fireworks</del>	<del>Fireworks</del>	<del>Fireworks</del>
19	<del>Pounds</del>	<del>Feet</del>	<del>Feet</del>	<del>Feet</del>	<del>Feet</del>
20	<del>100 or less</del>	<del>25</del>	<del>200</del>	<del>50</del>	<del>200</del>
21	<del>101 to 200</del>	<del>30</del>	<del>200</del>	<del>60</del>	<del>200</del>
22	<del>201 to 400</del>	<del>35</del>	<del>200</del>	<del>70</del>	<del>200</del>
23	<del>401 to 600</del>	<del>40</del>	<del>200</del>	<del>80</del>	<del>200</del>
24	<del>601 to 800</del>	<del>45</del>	<del>200</del>	<del>90</del>	<del>252</del>
25	<del>801 to 1,000</del>	<del>50</del>	<del>200</del>	<del>100</del>	<del>292</del>
26	<del>1,001 to 2,000</del>	<del>55</del>	<del>230</del>	<del>115</del>	<del>459</del>

1	2,001 to 3,000	62	296	+24	592
2	3,001 to 4,000	65	352	+30	704
3	4,001 to 5,000	68	400	+35	800
4	5,001 to 6,000	70	441	+39	882
5	6,001 to 8,000	73	509	+40	<del>1,018</del>
6	8,001 to 10,000	75	565	+50	<del>1,129</del>
7	10,001 to 15,000	80	660	+59	<del>1,335</del>
8	15,001 to 20,000	83	745	+65	<del>1,490</del>
9	20,001 to 30,000	87	863	+74	<del>1,725</del>
10	30,001 to 40,000	90	953	+80	<del>1,906</del>
11	40,001 to 50,000	93	<del>1,030</del>	+85	<del>2,060</del>
12	50,001 to 60,000	95	<del>1,095</del>	+89	<del>2,190</del>
13	60,001 to 80,000	98	<del>1,205</del>	+95	<del>2,410</del>
14	80,001 to 100,000	+00	<del>1,300</del>	200	<del>2,600</del>
15	100,001 to 150,000	+05	<del>1,488</del>	209	<del>2,975</del>
16	151,001 to 200,000	+08	<del>1,638</del>	215	<del>3,275</del>
17	200,001 or more	+10	<del>1,765</del>	220	<del>3,530</del>

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 THAT CONTAIN 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.

8        Section 2. This amendatory act shall not take effect unless  
9 Senate Bill No. \_\_\_\_\_ or House Bill No. 4311 (request  
10 no. 01255'91) of the 86th Legislature is enacted into law.