



HOUSE BILL No. 5998

July 3, 1996, Introduced by Reps. Gire, LaForge, Schroer and Scott and referred to the Committee on Judiciary and Civil Rights.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

6 Sec. 243a. (1) As used in this chapter:

7 ~~-(a) "Fireworks" means a device made from explosive or~~
8 ~~flammable compositions used primarily for the purpose of~~

1 ~~producing a visible display or audible effect, or both, by~~
2 ~~combustion, deflagration, or detonation. Fireworks includes~~
3 ~~class B fireworks and class C fireworks.~~

4 ~~(b) "Class B fireworks" means toy torpedoes, railway torpe-~~
5 ~~does, firecrackers or salutes that do not qualify as class C~~
6 ~~fireworks, exhibition display pieces, aeroplane flares, illumi-~~
7 ~~nating projectiles, incendiary projectiles, incendiary grenades,~~
8 ~~smoke projectiles or bombs containing expelling charges but with-~~
9 ~~out bursting charges, flash powders in inner units not exceeding~~
10 ~~2 ounces each, flash sheets in interior packages, flash powder or~~
11 ~~spreader cartridges containing not more than 72 grains of flash~~
12 ~~powder each, and other similar devices.~~

13 ~~(c) "Class C fireworks" means toy smoke devices, toy caps~~
14 ~~containing not more than .25 grains of explosive mixture, toy~~
15 ~~propellant devices, cigarette loads, trick matches, trick noise~~
16 ~~makers, smoke candles, smoke pots, smoke grenades, smoke signals,~~
17 ~~hand signal devices, Very signal cartridges, sparklers, explosive~~
18 ~~auto alarms, and other similar devices.~~

19 (A) "CLASS B FIREWORKS" MEANS 1 OR MORE OF THE FOLLOWING:

20 (i) A TOY TORPEDO, RAILWAY TORPEDO, FIRECRACKER, OR SALUTE
21 THAT DOES NOT QUALIFY AS CLASS C FIREWORKS.

22 (ii) AN EXHIBITION DISPLAY PIECE, AEROPLANE FLARE, ILLUMI-
23 NATING PROJECTILE, INCENDIARY PROJECTILE, INCENDIARY GRENADE,
24 SMOKE PROJECTILE, OR BOMB THAT CONTAINS AN EXPELLING CHARGE BUT
25 THAT DOES NOT CONTAIN A BURSTING CHARGE.

26 (iii) FLASH POWDER IN AN INNER UNIT THAT DOES NOT EXCEED 2
27 OUNCES PER UNIT.

1 (iv) A FLASH SHEET IN AN INTERIOR PACKAGE.

2 (v) A FLASH POWDER OR SPREADER CARTRIDGE CONTAINING NOT MORE
3 THAN 72 GRAINS OF FLASH POWDER.

4 (vi) ANY OTHER DEVICE SUBSTANTIALLY SIMILAR TO A DEVICE
5 DESCRIBED IN SUBPARAGRAPHS (i) TO (v).

6 (B) "CLASS C FIREWORKS" MEANS 1 OR MORE OF THE FOLLOWING:

7 (i) A TOY SMOKE DEVICE.

8 (ii) A TOY CAP CONTAINING NOT MORE THAN .25 GRAINS OF EXPLO-
9 SIVE MIXTURE.

10 (iii) A TOY PROPELLANT DEVICE.

11 (iv) A CIGARETTE LOAD.

12 (v) A TRICK MATCH.

13 (vi) A TRICK NOISE MAKER.

14 (vii) A SMOKE CANDLE, SMOKE POT, SMOKE GRENADE, OR SMOKE
15 SIGNAL.

16 (viii) A HAND SIGNAL DEVICE.

17 (ix) A VERY SIGNAL CARTRIDGE.

18 (x) A SPARKLER.

19 (xi) AN EXPLOSIVE AUTO ALARM.

20 (xii) ANY OTHER DEVICE SUBSTANTIALLY SIMILAR TO A DEVICE
21 DESCRIBED IN SUBPARAGRAPHS (i) TO (xi).

22 (C) "FIREWORKS" MEANS A DEVICE MADE FROM AN EXPLOSIVE OR
23 FLAMMABLE COMPOSITION THAT IS USED PRIMARILY TO PRODUCE A VISIBLE
24 DISPLAY OR AUDIBLE EFFECT, OR BOTH, BY COMBUSTION, DEFLAGRATION,
25 OR DETONATION. FIREWORKS INCLUDES CLASS B FIREWORKS AND CLASS C
26 FIREWORKS.

1 (D) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
2 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

3 (2) Except as provided in subsection (3) and sections 243b,
4 243c, and 243d, a person ~~, firm, partnership, or corporation~~
5 shall not offer for sale, expose for sale, sell at retail, keep
6 with intent to sell at retail, possess, give, furnish, transport,
7 use, explode, or cause to explode any of the following:

8 (a) A blank cartridge, blank cartridge pistol, toy cannon,
9 toy cane, or toy gun in which explosives are used.

10 (b) An unmanned balloon ~~which~~ THAT requires fire under-
11 neath to propel it and THAT is not moored to the ground while
12 aloft.

13 (c) ~~Firecrackers, torpedoes, skyrockets, roman candles,~~
14 ~~daygo bombs, bottle rockets, whistling chasers, rockets on~~
15 ~~sticks,~~ A FIRECRACKER, TORPEDO, SKYROCKET, ROMAN CANDLE, DAYGO
16 BOMB, BOTTLE ROCKET, WHISTLING CHASER, ROCKET ON A STICK, or
17 other ~~fireworks~~ FIREWORK of ~~like~~ SUBSTANTIALLY SIMILAR
18 construction.

19 (d) Fireworks containing an explosive or ~~inflammable~~
20 FLAMMABLE compound. ~~or a~~

21 (E) A tablet or other device commonly used and sold as fire-
22 works ~~containing nitrates, fulminates, chlorates, oxalates,~~
23 ~~sulphides~~ THAT CONTAINS A NITRATE, FULMINATE, CHLORATE, OXALATE,
24 SULPHIDE of lead, barium, antimony, arsenic, mercury, nitroglyc-
25 erine, phosphorus, or a compound containing these or ANY other
26 modern explosives.

(3) A permit is not required for ANY OF the following:

(a) Flat paper caps containing not more than .25 of a grain of explosive content per cap, in ~~packages~~ A PACKAGE labeled to indicate the maximum explosive content per cap.

(b) ~~Toy pistols~~ A TOY PISTOL, toy ~~cannons~~ CANNON, toy ~~canes~~ CANE, toy trick noise ~~makers~~ MAKER, ~~and~~ OR toy ~~guns~~ GUN of a type approved by the director of the department of state police in which paper caps as described in subdivision (a) are used and ~~which are so~~ THAT IS constructed SO that ~~the~~ A hand cannot come in contact with the cap when THE CAP IS in place for the explosion and ~~which are~~ THAT IS not designed to break apart or be separated so as to form a missile by the explosion.

(c) ~~Sparklers~~ A SPARKLER containing not more than .0125 pounds of burning ~~portion per sparkler~~ MATERIAL.

(d) ~~Flitter sparklers~~ A FLITTER SPARKLER in A paper ~~tubes~~ TUBE not exceeding 1/8 inch in diameter, A cone ~~fountains~~ FOUNTAIN, ~~and~~ OR A cylinder ~~fountains~~ FOUNTAIN.

(e) ~~Toy snakes~~ A TOY SNAKE THAT DOES not ~~containing~~ CONTAIN mercury, if THE TOY SNAKE IS packed in A cardboard ~~boxes~~ BOX with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity OF TOY SNAKES contained in each box are printed on the box. ~~, and toy smoke devices.~~

(F) A TOY SMOKE DEVICE.

(G) ~~(f) Possession, transportation, sale, or use of~~

POSSESSING, TRANSPORTING, SELLING, OR USING ANY OF THE FOLLOWING:

1 (i) A signal ~~flares~~ FLARE of a type approved by the
2 director of the department of state police. ~~—~~

3 (ii) A blank ~~cartridges~~ CARTRIDGE or blank cartridge
4 ~~pistols~~ PISTOL specifically DESIGNED for ~~a~~ USE IN ANY OF THE
5 FOLLOWING:

6 (A) A show or theater. ~~— for the training~~

7 (B) TRAINING or exhibiting ~~of~~ dogs. ~~— for signal~~

8 (C) SIGNAL purposes in athletic sports. ~~— for use by~~
9 ~~military~~

10 (D) MILITARY organizations. ~~— and all items~~

11 (iii) ANY DEVICE described in subsection (2) THAT IS used OR
12 INTENDED TO BE USED by ~~railroads~~ A RAILROAD for emergency
13 signal purposes.

14 (H) ~~(g) The sale of fireworks, provided they are to be~~
15 ~~shipped directly out of~~ FIREWORKS THAT ARE SOLD IN THIS STATE
16 BUT ARE DELIVERED BY THE SELLER DIRECTLY TO THE BUYER WHO IS NOT
17 PHYSICALLY LOCATED IN THIS state ~~pursuant to~~ AT THE TIME THE
18 DELIVERY IS MADE, AND THE DELIVERY IS MADE IN COMPLIANCE WITH
19 regulations of the United States department of transportation
20 covering the transportation of explosives and other dangerous
21 articles by motor, rail, ~~and~~ OR water.

22 Sec. 243b. (1) The council or commission of a city or vil-
23 lage or the township board of a township, upon application in
24 writing, on ~~forms~~ A FORM provided by the director of the
25 department of state police, may grant a permit ~~for the~~ TO AN
26 APPLICANT TO use ~~of~~ fireworks WITHIN THE POLITICAL JURISDICTION
27 OF THAT CITY, VILLAGE, OR TOWNSHIP THAT ARE otherwise prohibited

1 by section 243a, ~~within their political jurisdiction,~~
2 ~~manufactured~~ for outdoor pest control or agricultural purposes,
3 or for public display by ~~municipalities~~ THE APPLICANT ON BEHALF
4 OF A MUNICIPALITY, fair ~~associations~~ ASSOCIATION, amusement
5 ~~parks~~ PARK, or other ~~organizations~~ ORGANIZATION or ~~groups~~
6 GROUP of individuals approved by the city, village, or township
7 authority. ~~, if the applicable provisions of this act are com-~~
8 ~~plied with. The permits~~ A PERMIT shall be ISSUED on ~~forms~~ A
9 FORM provided by the director of the department of state police.
10 ~~After~~ IF a permit ~~has been granted, sales, possession, or~~
11 ~~transportation of~~ IS ISSUED UNDER THIS SECTION, THE PERMIT
12 HOLDER MAY SELL, POSSESS, OR TRANSPORT fireworks for ~~the~~
13 ~~purposes~~ ANY PURPOSE described in the permit. ~~only made be~~
14 ~~made.~~ A permit ~~granted~~ ISSUED under this subsection ~~shall~~ IS
15 not ~~be~~ transferable, ~~nor~~ AND shall ~~a permit~~ NOT be issued
16 to ~~a person under the age of~~ AN INDIVIDUAL LESS THAN 18 years
17 OF AGE.

18 (2) The council or commission of a city or village or the
19 township board of a township, upon application in writing, may
20 grant a permit, on ~~forms~~ A FORM provided by the director of the
21 department of state police, to a resident wholesale dealer or
22 jobber to have FIREWORKS OTHERWISE PROHIBITED UNDER SECTION 243A
23 in his OR HER possession within the political jurisdiction ~~7~~
24 ~~fireworks otherwise prohibited by section 243a,~~ for sale only to
25 holders of permits as provided in this section. A permit granted
26 under this subsection is not transferable, ~~nor~~ AND shall ~~a~~

1 ~~permit~~ NOT be issued to ~~a person under the age of~~ AN
2 INDIVIDUAL LESS THAN 18 years OF AGE.

3 (3) Before a permit for a pyrotechnic display is issued, the
4 person, firm, or corporation making application ~~therefor~~ FOR
5 THE PERMIT shall furnish proof of financial responsibility by a
6 bond or insurance in an amount ~~deemed~~ CONSIDERED necessary by
7 the local governing authority to satisfy ALL claims for damages
8 to property or personal injuries arising out of an act or omis-
9 sion on the part of the person ~~, firm, or corporation,~~ or an
10 agent or employee ~~thereof,~~ OF THAT PERSON. THE BOND OR INSUR-
11 ANCE SHALL BE in the amount, character, and form the local
12 authority determines IS necessary ~~for the protection of~~ TO
13 PROTECT the public.

14 (4) A permit shall not be issued under this act to a nonres-
15 ident person ~~, firm, or corporation for~~ TO conduct ~~of~~ a pyro-
16 technic display in this state until the person ~~, firm, or~~
17 ~~corporation~~ has appointed in writing a resident member of the
18 ~~bar of this state~~ STATE BAR OF MICHIGAN or a resident ~~agent~~
19 OF THIS STATE to be his OR HER legal representative upon whom all
20 process in an action or proceeding against him OR HER may be
21 served.

22 (5) The local governing authority shall ~~rule on~~ CONSIDER
23 the competency and qualifications of ~~operators~~ A PROSPECTIVE
24 OPERATOR of A pyrotechnic ~~displays, as the operator has~~ DISPLAY
25 BASED UPON THE INFORMATION furnished in his OR HER application
26 form ~~, and on~~ BEFORE ISSUING A PERMIT UNDER THIS SECTION.

1 (6) THE LOCAL GOVERNING BODY SHALL SPECIFY the time, place,
 2 and safety aspects of the ~~displays~~ DISPLAY before ~~granting~~
 3 ~~permits~~ ISSUING A PERMIT UNDER THIS SECTION.

4 Sec. 243c. ~~Transportation of fireworks~~ FIREWORKS SHALL BE
 5 TRANSPORTED intrastate ~~shall be made~~ only IN COMPLIANCE with
 6 ~~the permits provided for in~~ A PERMIT ISSUED UNDER this act and
 7 as follows:

8 (a) In ~~accordance~~ COMPLIANCE with United States department
 9 of transportation regulations for ~~transportation of~~
 10 TRANSPORTING explosives and other dangerous articles by motor,
 11 rail, ~~and~~ OR water, including, BUT NOT LIMITED TO, specifica-
 12 tions for shipping containers.

13 (b) In A nonpassenger carrying ~~vehicles~~ VEHICLE, in THE
 14 charge of a competent driver ~~not less than~~ WHO IS 18 years of
 15 age OR OLDER, ~~which are~~ THAT IS equipped with a 15-pound carbon
 16 dioxide FIRE EXTINGUISHER or a 10-pound dry chemical fire extin-
 17 guisher ~~—~~ and in WHICH or near which smoking ~~shall be~~ IS pro-
 18 hibited while loading, unloading, or transporting fireworks.

19 Sec. 243d. The storage of fireworks at the site of a whole-
 20 saler, dealer, or jobber, except for a retailer who has goods on
 21 hand for sale to the public in a supervised display area, shall
 22 be as follows:

23 (a) In a 1-story, noncombustible building ~~without~~ THAT
 24 DOES NOT HAVE a basement, ~~which building~~ AND THAT is weather
 25 resistant, well ventilated, and equipped with a strong door THAT
 26 IS kept securely locked except when THE BUILDING IS open for
 27 business.

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

Net Weight of Fireworks	Distance From Passenger Railways and Public Highways		Distance From Inhabited Buildings	
	Class C Fireworks	Class B Fireworks	Class C Fireworks	Class B Fireworks
Pounds	Feet	Feet	Feet	Feet
100 or less	25	200	50	200
101 to 200	30	200	60	200
201 to 400	35	200	70	200
401 to 600	40	200	80	208
601 to 800	45	200	90	252
801 to 1,000	50	200	100	292
1,001 to 2,000	58	230	115	459
2,001 to 3,000	62	296	124	592
3,001 to 4,000	65	352	130	704
4,001 to 5,000	68	400	135	800
5,001 to 6,000	70	441	139	882
6,001 to 8,000	73	509	140	1,018
8,001 to 10,000	75	565	150	1,129
10,001 to 15,000	80	668	159	1,335
15,001 to 20,000	83	745	165	1,490
20,001 to 30,000	87	863	174	1,725
30,001 to 40,000	90	953	180	1,906
40,001 to 50,000	93	1,030	185	2,060
50,001 to 60,000	95	1,095	189	2,190
60,001 to 80,000	98	1,205	195	2,410
80,001 to 100,000	100	1,300	200	2,600
100,001 to 150,000	105	1,488	209	2,975
151,001 to 200,000	108	1,638	215	3,275
200,001 or more	110	1,765	220	3,530

(c) A person shall not ~~cause or allow smoking, matches~~ SMOKE, OR POSSESS A MATCH, open ~~flames~~ FLAME, spark producing ~~devices~~ DEVICE, or ~~firearms~~ FIREARM, inside of A BUILDING

1 STORING FIREWORKS or within 50 feet of a building ~~used for the~~
2 ~~storage of~~ STORING fireworks. A person shall not store combus-
3 tible materials within 50 feet of a building ~~used for the stor-~~
4 ~~age of~~ STORING fireworks.

5 (d) The interior of a building ~~used for the storage of~~
6 STORING fireworks shall be kept clean and free from debris and
7 empty containers. A person shall not use a building ~~used for~~
8 ~~the storage of~~ STORING fireworks ~~for the storage of~~ TO STORE
9 any metal ~~tools~~ TOOL or any OTHER commodity other than
10 fireworks.

11 (e) A person shall not ~~provide~~ EQUIP a building used ~~for~~
12 ~~the storage of~~ TO STORE fireworks with heat or lights. ~~except~~
13 ~~that if lights are necessary,~~ THIS SUBDIVISION DOES NOT PROHIBIT
14 THE USE OF an electric safety flashlight or safety lantern ~~shall~~
15 ~~be used~~ IN THE BUILDING.

16 (f) A building used ~~for the storage of~~ TO STORE fireworks
17 shall ~~bear lettering~~ HAVE THE FOLLOWING WARNING on each side
18 and ~~top~~ ON THE ROOF in letters not less than 4 inches high: ~~the~~
19 ~~the words~~ "explosives--keep fire away".

20 (g) A building ~~used for the storage of~~ STORING fireworks
21 shall be under the supervision of a competent person ~~who~~
22 ~~shall be not less than~~ IS 18 years of age OR OLDER.

23 (h) In addition to the requirements of subdivision (b),
24 salutes that do not qualify as class C fireworks ~~shall be~~ ARE
25 considered ~~to be~~ hazardous material and shall be stored in
26 ~~accordance~~ COMPLIANCE with rules for ~~the storage~~ STORING and
27 handling ~~of~~ hazardous material THAT ARE promulgated under

1 section 3c of Act No. 207 of the Public Acts of 1941, ~~as~~
2 ~~amended,~~ being section 29.3c of the Michigan Compiled Laws.