

HOUSE BILL No. 4263

February 11, 1997, Introduced by Reps. Gire, Schauer, McBryde, Callahan, LaForge and Perricone and referred to the Committee on Regulatory Affairs.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 243a, 243b, 243c, and 243d (MCL 750.243a,
750.243b, 750.243c, and 750.243d), sections 243a and 243d as
amended by 1980 PA 422.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

2 ~~-(a) "Fireworks" means a device made from explosive or flam-~~
3 ~~mable compositions used primarily for the purpose of producing a~~
4 ~~visible display or audible effect, or both, by combustion, defla-~~
5 ~~gration, or detonation. Fireworks includes class B fireworks and~~
6 ~~class C fireworks.~~

7 ~~(b) "Class B fireworks" means toy torpedoes, railway~~
8 ~~torpedoes, firecrackers or salutes that do not qualify as class C~~
9 ~~fireworks, exhibition display pieces, aeroplane flares,~~

~~1 illuminating projectiles, incendiary projectiles, incendiary
2 grenades, smoke projectiles or bombs containing expelling charges
3 but without bursting charges, flash powders in inner units not
4 exceeding 2 ounces each, flash sheets in interior packages, flash
5 powder or spreader cartridges containing not more than 72 grains
6 of flash powder each, and other similar devices.~~

~~7 (c) "Class C fireworks" means toy smoke devices, toy caps
8 containing not more than .25 grains of explosive mixture, toy
9 propellant devices, cigarette loads, trick matches, trick noise
10 makers, smoke candles, smoke pots, smoke grenades, smoke signals,
11 hand signal devices, Very signal cartridges, sparklers, explosive
12 auto alarms, and other similar devices.~~

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

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

16 (ii) AN EXHIBITION DISPLAY PIECE, AEROPLANE FLARE, ILLUMI-
17 NATING PROJECTILE, INCENDIARY PROJECTILE, INCENDIARY GRENADE,
18 SMOKE PROJECTILE, OR BOMB THAT CONTAINS AN EXPELLING CHARGE BUT
19 THAT DOES NOT CONTAIN A BURSTING CHARGE.

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

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

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

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

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

2 (i) A TOY SMOKE DEVICE.

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

5 (iii) A TOY PROPELLANT DEVICE.

6 (iv) A CIGARETTE LOAD.

7 (v) A TRICK MATCH.

8 (vi) A TRICK NOISE MAKER.

9 (vii) A SMOKE CANDLE, SMOKE POT, SMOKE GRENADE, OR SMOKE
10 SIGNAL.

11 (viii) A HAND SIGNAL DEVICE.

12 (ix) A VERY SIGNAL CARTRIDGE.

13 (x) A SPARKLER.

14 (xi) AN EXPLOSIVE AUTO ALARM.

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

17 (C) "FIREWORKS" MEANS A DEVICE MADE FROM AN EXPLOSIVE OR
18 FLAMMABLE COMPOSITION THAT IS USED PRIMARILY TO PRODUCE A VISIBLE
19 DISPLAY OR AUDIBLE EFFECT, OR BOTH, BY COMBUSTION, DEFLAGRATION,
20 OR DETONATION. FIREWORKS INCLUDES CLASS B FIREWORKS AND CLASS C
21 FIREWORKS.

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

24 (2) Except as provided in subsection (3) and sections 243b,
25 243c, and 243d, a person ~~—, firm, partnership, or corporation—~~
26 shall not offer for sale, expose for sale, sell at retail, keep

1 with intent to sell at retail, possess, give, furnish, transport,
2 use, explode, or cause to explode any of the following:

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

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

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

14 (d) Fireworks containing an explosive or ~~inflammable~~
15 FLAMMABLE compound. ~~or a~~

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

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

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

26 (b) ~~Toy pistols~~ A TOY PISTOL, toy ~~cannons~~ CANNON, toy
27 ~~canes~~ CANE, toy trick noise ~~makers~~ MAKER, ~~and~~ OR toy ~~guns~~

1 GUN of a type approved by the director of the department of state
2 police in which paper caps as described in subdivision (a) are
3 used and ~~which are so~~ THAT IS constructed SO that ~~the~~ A hand
4 cannot come in contact with the cap when THE CAP IS in place for
5 the explosion and ~~which are~~ THAT IS not designed to break apart
6 or be separated so as to form a missile by the explosion.

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

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

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

18 (F) A TOY SMOKE DEVICE.

19 (G) ~~(f) Possession, transportation, sale, or use of~~
20 POSSESSING, TRANSPORTING, SELLING, OR USING ANY OF THE
21 FOLLOWING:

22 (i) A signal ~~flares~~ FLARE of a type approved by the direc-
23 tor of the department of state police. ~~,~~

24 (ii) A blank ~~cartridges~~ CARTRIDGE or blank cartridge
25 ~~pistols~~ PISTOL specifically DESIGNED for ~~a~~ USE IN ANY OF THE
26 FOLLOWING:

(A) A show or theater. ~~, for the training~~

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

(C) SIGNAL purposes in athletic sports. ~~, for use by~~
~~military~~

(D) MILITARY organizations. ~~, and all items~~

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

(H) ~~(g) The sale of fireworks, provided they are to be~~

~~shipped directly out of~~ FIREWORKS THAT ARE SOLD IN THIS STATE

BUT ARE DELIVERED BY THE SELLER DIRECTLY TO THE BUYER WHO IS NOT

PHYSICALLY LOCATED IN THIS state ~~pursuant to~~ AT THE TIME THE

DELIVERY IS MADE, AND THE DELIVERY IS MADE IN COMPLIANCE WITH

regulations of the United States department of transportation

covering the transportation of explosives and other dangerous

articles by motor, rail, ~~and~~ OR water.

Sec. 243b. (1) The council or commission of a city or vil-

lage or the township board of a township, upon application in

writing, on ~~forms~~ A FORM provided by the director of the

department of state police, may grant a permit ~~for the~~ TO AN

APPLICANT TO use ~~of~~ fireworks WITHIN THE POLITICAL JURISDICTION

OF THAT CITY, VILLAGE, OR TOWNSHIP THAT ARE otherwise prohibited

by section 243a, ~~within their political jurisdiction,~~

~~manufactured~~ for outdoor pest control or agricultural purposes,

or for public display by ~~municipalities~~ THE APPLICANT ON BEHALF

OF A MUNICIPALITY, fair ~~associations~~ ASSOCIATION, amusement

~~parks~~ PARK, or other ~~organizations~~ ORGANIZATION or ~~groups~~

1 GROUP of individuals approved by the city, village, or township
2 authority. ~~, if the applicable provisions of this act are com-~~
3 ~~plied with. The permits~~ A PERMIT shall be ISSUED on ~~forms~~ A
4 FORM provided by the director of the department of state police.
5 ~~After~~ IF a permit ~~has been granted, sales, possession, or~~
6 ~~transportation of~~ IS ISSUED UNDER THIS SECTION, THE PERMIT
7 HOLDER MAY SELL, POSSESS, OR TRANSPORT fireworks for ~~the~~
8 ~~purposes~~ ANY PURPOSE described in the permit. ~~only made be~~
9 ~~made.~~ A permit ~~granted~~ ISSUED under this subsection ~~shall~~ IS
10 not ~~be~~ transferable, ~~nor~~ AND shall ~~a permit~~ NOT be issued
11 to ~~a person under the age of~~ AN INDIVIDUAL LESS THAN 18 years
12 OF AGE.

13 (2) The council or commission of a city or village or the
14 township board of a township, upon application in writing, may
15 grant a permit, on ~~forms~~ A FORM provided by the director of the
16 department of state police, to a resident wholesale dealer or
17 jobber to have FIREWORKS OTHERWISE PROHIBITED UNDER SECTION 243A
18 in his OR HER possession within the political jurisdiction ~~,~~
19 ~~fireworks otherwise prohibited by section 243a,~~ for sale only to
20 holders of permits as provided in this section. A permit granted
21 under this subsection is not transferable, ~~nor~~ AND shall ~~a~~
22 ~~permit~~ NOT be issued to ~~a person under the age of~~ AN INDIVID-
23 UAL LESS THAN 18 years OF AGE.

24 (3) Before a permit for a pyrotechnic display is issued, the
25 person, firm, or corporation making application ~~therefor~~ FOR
26 THE PERMIT shall furnish proof of financial responsibility by a
27 bond or insurance in an amount ~~deemed~~ CONSIDERED necessary by

1 the local governing authority to satisfy ALL claims for damages
 2 to property or personal injuries arising out of an act or omis-
 3 sion on the part of the person ~~, firm, or corporation,~~ or an
 4 agent or employee ~~thereof,~~ OF THAT PERSON. THE BOND OR INSUR-
 5 ANCE SHALL BE in the amount, character, and form the local
 6 authority determines IS necessary ~~for the protection of~~ TO
 7 PROTECT the public.

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

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

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

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

1 (a) In ~~accordance~~ COMPLIANCE with United States department
2 of transportation regulations for ~~transportation of~~
3 TRANSPORTING explosives and other dangerous articles by motor,
4 rail, ~~and~~ OR water, including, BUT NOT LIMITED TO, specifica-
5 tions for shipping containers.

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

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

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

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

2	Net Weight of	Distance From	Distance From
3	Fireworks	Passenger Railways	Inhabited Buildings
4		and Public Highways	
5		Class C	Class B
6		Fireworks	Fireworks
7	Pounds	Feet	Feet
8	100 or less	25	200
9	101 to 200	30	200
10	201 to 400	35	200
11	401 to 600	40	200
12	601 to 800	45	200
13	801 to 1,000	50	200
14	1,001 to 2,000	58	230
15	2,001 to 3,000	62	296
16	3,001 to 4,000	65	352
17	4,001 to 5,000	68	400
18	5,001 to 6,000	70	441
19	6,001 to 8,000	73	509
20	8,001 to 10,000	75	565
21	10,001 to 15,000	80	668
22	15,001 to 20,000	83	745
23	20,001 to 30,000	87	863
24	30,001 to 40,000	90	953
25	40,001 to 50,000	93	1,030
26	50,001 to 60,000	95	1,095
27	60,001 to 80,000	98	1,205
28	80,001 to 100,000	100	1,300
29	100,001 to 150,000	105	1,488
30	151,001 to 200,000	108	1,638
31	200,001 or more	110	1,765

33 (c) A person shall not ~~cause or allow smoking, matches~~
34 SMOKE, OR POSSESS A MATCH, open ~~flames~~ FLAME, spark producing
35 ~~devices~~ DEVICE, or ~~firearms~~ FIREARM, inside of A BUILDING
36 STORING FIREWORKS or within 50 feet of a building ~~used for the~~
37 ~~storage of~~ STORING fireworks. A person shall not store combus-
38 tible materials within 50 feet of a building ~~used for the stor-~~
39 ~~age of~~ STORING fireworks.

40 (d) The interior of a building ~~used for the storage of~~
41 STORING fireworks shall be kept clean and free from debris and

1 empty containers. A person shall not use a building ~~used for~~
2 ~~the storage of~~ STORING fireworks ~~for the storage of~~ TO STORE
3 any metal ~~tools~~ TOOL or any OTHER commodity other than
4 fireworks.

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

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

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

17 (h) In addition to the requirements of subdivision (b),
18 salutes that do not qualify as class C fireworks ~~shall be~~ ARE
19 considered ~~to be~~ hazardous material and shall be stored in
20 ~~accordance~~ COMPLIANCE with rules for ~~the storage~~ STORING and
21 handling ~~of~~ hazardous material THAT ARE promulgated under sec-
22 tion 3c of ~~Act No. 207 of the Public Acts of 1941, as amended,~~
23 ~~being section 29.3c of the Michigan Compiled Laws~~ THE FIRE PRE-
24 VENTION CODE, 1941 PA 207, MCL 29.3C.