

HOUSE BILL No. 4293

February 17, 2011, Introduced by Reps. Haugh, Liss, Dillon, Melton, Roy Schmidt, Hobbs, Durhal, Hammel, Franz, McCann, Stanley, Lane, Stapleton, Jackson, Nathan, Brown, Huuki, Foster, Shirkey, Lori, Pettalia, Tyler, Lipton, Geiss, Barnett, Rogers, Kandrevas, Wayne Schmidt, Stallworth, Howze, Rutledge, Santana, Womack, Walsh, Constan, Smiley, Townsend, McBroom, Irwin, Olumba and Oakes and referred to the Committee on Regulatory Reform.

A bill to revise, consolidate, and codify the laws relating to fireworks; to regulate the purchase, possession, sale, and use of fireworks; to establish a fireworks safety fund; to establish a fireworks safety fee; to provide for the transfer and expenditure of funds; to prescribe the powers and duties of certain state agencies; to provide for penalties and remedies; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan fireworks safety act".

3 Sec. 2. As used in this act:

4 (a) "Agricultural and wildlife fireworks" means fireworks
5 devices distributed to farmers, ranchers, and growers through a
6 wildlife management program administered by the United States

1 department of the interior or the department of natural resources
2 and environment of this state.

3 (b) "APA standard 87-1" means 2001 APA standard 87-1,
4 standard for construction and approval for transportation of
5 fireworks, novelties, and theatrical pyrotechnics, published by
6 the American pyrotechnics association of Bethesda, Maryland.

7 (c) "Articles pyrotechnic" means pyrotechnic devices for
8 professional use that are similar to consumer fireworks in
9 chemical composition and construction but not intended for
10 consumer use, that meet the weight limits for consumer fireworks
11 but are not labeled as such, and that are classified as UN0431 or
12 UN0432 under 49 CFR 172.101.

13 (d) "Bureau" means the bureau of fire services created under
14 section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b.

15 (e) "Consumer fireworks" means fireworks devices that are
16 designed to produce visible effects by combustion and that are
17 required to comply with the construction, chemical composition,
18 and labeling regulations promulgated by the United States
19 consumer product safety commission under 16 CFR parts 1500 and
20 1507 and that are listed in APA standard 87-1.

21 (f) "Display fireworks" means large fireworks devices that
22 are explosive materials intended for use in fireworks displays
23 and designed to produce visible or audible effects by combustion,
24 deflagration, or detonation, as provided in 16 CFR 1500 and 1507,
25 49 CFR 172, and APA standard 87-1.

26 (g) "Explosive composition" means a chemical or mixture of
27 chemicals that produces an audible effect by deflagration or

1 detonation when ignited.

2 (h) "Firework" or "fireworks" means any composition or
3 device, except for a starting pistol, a flare gun, or a flare,
4 designed for the purpose of producing a visible or audible effect
5 by combustion, deflagration, or detonation. Fireworks consist of
6 consumer fireworks, low-grade fireworks, articles pyrotechnic,
7 display fireworks, and special effects.

8 (i) "Fireworks certificate" means a certificate issued under
9 section 3 or 5.

10 (j) "Low-grade fireworks" means any of the following:

11 (i) Ground and handheld sparkling devices as that phrase is
12 defined under APA standard 87-1 3.1.

13 (ii) Novelties as defined under APA standard 87-1 3.2 and all
14 of the following:

15 (A) Toy plastic or paper caps for toy pistols in sheets,
16 trips, rolls, or individual caps containing not more than .25 of
17 a grain of explosive content per cap, in packages labeled to
18 indicate the maximum explosive content per cap.

19 (B) Toy pistols, toy cannons, toy canes, toy trick
20 noisemakers, and toy guns of a type approved by the bureau in
21 which toy caps as described in sub-subparagraph (A) are used,
22 that are constructed so that the hand cannot come in contact with
23 the cap when in place for the explosion, and that are not
24 designed to break apart or be separated so as to form a missile
25 by the explosion.

26 (C) Flitter sparklers in paper tubes not exceeding 1/8 inch
27 in diameter, cone fountains, and cylinder fountains.

(D) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

(k) "Local unit of government" means a city, village, township, or county.

(l) "Manufacturer" means a person engaged in the manufacture of fireworks.

(m) "Minor" means an individual who is less than 18 years of age.

(n) "NFPA" means the national fire protection association headquartered at 1 Batterymarch Park, Quincy, MA.

(o) "NFPA 1" means the uniform fire code, 2006 edition, developed by NFPA.

(p) "NFPA 72" means the "National Fire Alarm Code", 2002 edition, developed by NFPA.

(q) "NFPA 101" means the "Life Safety Code", 2009 edition, developed by NFPA.

(r) "NFPA 102" means the "Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures", 2006 edition, developed by NFPA.

(s) "NFPA 1123" means the "Code for Fireworks Display", 2010 edition, developed by NFPA.

(t) "NFPA 1124" means the "Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles", 2006 edition, developed by NFPA.

(u) "NFPA 1126" means the "Standard for the Use of

1 Pyrotechnics Before a Proximate Audience", 2006 edition,
2 developed by NFPA.

3 (v) "Permanent building or structure" is a building or
4 structure that is affixed to a foundation on a site and that has
5 fixed utility connections and that is intended to remain on the
6 site for more than 180 consecutive calendar days.

7 (w) "Person" means an individual, agent, association,
8 charitable organization, company, limited liability company,
9 corporation, labor organization, legal representative,
10 partnership, unincorporated organization, or any other legal or
11 commercial entity.

12 (x) "Pyrotechnic composition" means a mixture of chemicals
13 that produces a visible or audible effect by combustion rather
14 than deflagration or detonation, and that will not explode upon
15 ignition unless severely confined.

16 (y) "Retailer" means a person who purchases consumer
17 fireworks and low-grade fireworks for resale to consumers.

18 (z) "Retail sales facility" or "RSF" means a permanent
19 structure that is used for the retail display and sale of
20 fireworks.

21 (aa) "Special effects" means a combination of chemical
22 elements or chemical compounds capable of burning independently
23 of the oxygen of the atmosphere and designed and intended to
24 produce an audible, visual, mechanical, or thermal effect as an
25 integral part of a motion picture, radio, television, theatrical,
26 or opera production or live entertainment.

27 (bb) "State fire marshal" means the state fire marshal

1 appointed under section 1b of the fire prevention code, 1941 PA
2 207, MCL 29.1b.

3 (cc) "Wholesaler" means any person who sells consumer
4 fireworks and low-grade fireworks to a retailer or any other
5 person for resale.

6 Sec. 3. (1) Except as otherwise provided in this act, a
7 person shall not transport, store, distribute, or sell fireworks
8 unless the person annually obtains and maintains a fireworks
9 certificate from the bureau under this section or section 5 and
10 pays the applicable fee.

11 (2) An application for a fireworks certificate under this
12 section shall meet all of the following requirements:

13 (a) The application shall be submitted no later than March 1
14 of each year in which fireworks are to be sold.

15 (b) The application shall list the name and address of each
16 location from which fireworks are to be sold.

17 (c) The application shall be accompanied by a fee as
18 follows:

19 (i) For each RSF where consumer fireworks will be sold and
20 each location where consumer fireworks will be stored, \$5,000.00
21 for an original certificate or \$2,500.00 for a renewal
22 certificate.

23 (ii) For each building where consumer fireworks will be
24 stored, \$5,000.00 for an original certificate or \$2,500.00 for a
25 renewal certificate.

26 (iii) For an RSF or location where only low-grade fireworks
27 will be sold or stored, no fee.

1 (3) A person who has obtained and maintained a current
2 fireworks certificate for the sale or storage of consumer
3 fireworks from an RSF or structure may sell or store low-grade
4 fireworks from the same RSF without obtaining a separate
5 certificate.

6 (4) A fireworks certificate issued under this section is
7 valid from May 1 of the year in which it was issued until April
8 30 of the year after it was issued. A person may renew a
9 fireworks certificate by making application in the same manner as
10 provided under subsection (2).

11 (5) Not more than 30 days after an application is submitted
12 to the bureau under this section, the bureau shall issue or deny
13 issuance of a fireworks certificate to the applicant and, if
14 issuance is denied, shall indicate to the applicant the reason
15 for denial.

16 (6) If the bureau denies issuance of a fireworks certificate
17 under this section, the applicant may cure any defect of the
18 application within 20 days after the denial without paying an
19 additional fee. The bureau shall not unreasonably delay or deny
20 an application under this section.

21 (7) A fireworks certificate is not transferable.

22 (8) A person shall not sell fireworks at a location for
23 which an appropriate fireworks certificate has not been issued.

24 (9) A retailer who violates subsection (1) or (8) is guilty
25 of a misdemeanor punishable by imprisonment for not more than 2
26 years or a fine of not more than \$5,000.00 for each day the
27 violation continues, or both.

1 (10) The holder of a fireworks certificate shall prominently
2 display the certificate in the appropriate RSF or warehouse, as
3 applicable. A person who violates this subsection is responsible
4 for a civil fine of \$100.00. Each day that the fireworks
5 certificate is not displayed as provided under this subsection is
6 a separate violation.

7 (11) The bureau shall not issue a fireworks certificate to a
8 person who is ineligible under section 11(4).

9 (12) The face of the fireworks certificate shall indicate
10 whether it was issued for consumer fireworks or only low-grade
11 fireworks, or to a wholesaler.

12 (13) A person who manufactures fireworks in this state and
13 ships those fireworks out of state by commercial carrier is not
14 required to obtain a fireworks certificate. This exception does
15 not apply to individuals who purchase fireworks for their own
16 use. A signed statement that an individual purchaser will
17 transport the fireworks out of this state is insufficient to
18 qualify for a fireworks certificate under this subsection.

19 (14) Fees collected under this section shall be deposited in
20 the fireworks safety fund created under section 14.

21 Sec. 4. (1) Except as otherwise provided in this act, a
22 retailer shall only sell consumer fireworks other than low-grade
23 fireworks from a retail sales facility that meets all of the
24 following criteria:

25 (a) The RSF shall comply with the requirements of this act
26 and with the requirements of NFPA 101 and NFPA 1124 that are not
27 in conflict with the provisions of this act.

(b) The RSF shall be equipped with an approved monitored fire and intrusion alarm system. The fire alarm system shall include smoke detection, manual pull boxes at each exit, and notification devices in accordance with NFPA 72.

(c) Beginning 1 year after the effective date of this act, an RSF shall be equipped with an approved fire suppression system regardless of the size of the RSF in compliance with NFPA 1124.

(d) The RSF shall maintain public liability and product liability insurance coverage of not less than \$2,000,000.00.

(e) The RSF shall be located not less than 300 feet from another RSF.

(f) The retail sales area of the RSF to which the public may be admitted shall be not less than 1,000 square feet.

(2) A retailer who violates this section is liable for a civil fine of not more than \$2,500.00 for each violation.

Sec. 5. (1) Low-grade fireworks shall only be sold from an RSF or from another permanent building or structure, except as otherwise provided in this section.

(2) All low-grade fireworks sold in a permanent building or structure other than an RSF shall satisfy NFPA 1 and NFPA 101 minimum standards and shall be tested and certified as described in section 7.

(3) Except as otherwise provided in this section, low-grade fireworks may be sold from a tent if all of the following requirements are met:

(a) The person who sells the fireworks is a nonprofit charitable organization that is exempt from the payment of taxes

1 under section 501(c)(3) of the internal revenue code of 1986, 26
2 USC 501(c)(3).

3 (b) The tent is not more than 35 feet by 50 feet in size and
4 satisfies the requirements of NFPA 1124 for tent sales.

5 (c) The tent's location satisfies all of the following
6 conditions:

7 (i) It is located in the parking lot of an RSF that is all of
8 the following:

9 (A) A grocery and general merchandise retail store open to
10 the public.

11 (B) The holder of a valid retail food establishment license
12 issued by the department of agriculture of this state.

13 (C) A permanent building or structure composed of more than
14 25,000 square feet of retail space.

15 (ii) Its location is allowed under applicable zoning laws.

16 (iii) The parking lot contains not less than 125 marked
17 spaces.

18 (d) The person who intends to sell low-grade fireworks from
19 a tent applies to and obtains a fireworks certificate from the
20 bureau. The application shall be submitted no later than March 1
21 of the year in which the tent sales under this section will
22 occur. The application shall contain all of the following:

23 (i) A list of the specific days when the low-grade fireworks
24 will be sold.

25 (ii) Proof that the person qualifies as a nonprofit
26 charitable organization as described in subdivision (a).

27 (iii) The name and address of each RSF where the tent sales

1 will occur.

2 (iv) A fee of \$250.00.

3 (4) A fireworks certificate issued under subsection (3)
4 shall indicate on its face dates when tent sales may occur. The
5 fireworks certificate is valid only for the days indicated on the
6 certificate.

7 (5) Not more than 30 days after the application is submitted
8 to the bureau under subsection (3), the bureau shall issue or
9 deny issuance of a fireworks certificate to the applicant and, if
10 issuance is denied, shall indicate to the applicant the reason
11 for denial.

12 (6) If the bureau denies issuance of a fireworks certificate
13 under subsection (3), the applicant may cure any defect of the
14 application within 20 days after the denial without paying an
15 additional fee. The bureau shall not unreasonably delay or deny
16 an application under this section.

17 (7) The holder of a fireworks certificate under subsection
18 (3) is not required to obtain a separate fireworks certificate
19 under section 3 for sales under subsection (3).

20 (8) A fireworks certificate issued under subsection (3) is
21 not transferable.

22 (9) A person shall not sell low-grade fireworks at a
23 location for which a fireworks certificate has not been issued
24 under subsection (3) or on a date not indicated on the face of
25 the certificate. A person who violates this subsection is guilty
26 of a misdemeanor punishable by imprisonment for not more than 2
27 years or a fine of not more than \$5,000.00 for each day the

1 violation continues, or both.

2 (10) The holder of a fireworks certificate under subsection
3 (3) shall prominently display the certificate in the appropriate
4 tent. A person who violates this subsection is responsible for a
5 civil fine of \$100.00. Each day that the certificate is not
6 displayed as provided under this subsection is a separate
7 violation.

8 (11) The bureau shall not issue a fireworks certificate
9 under subsection (3) to a person who is ineligible under section
10 11(4).

11 (12) Fees collected under this section shall be deposited in
12 the fireworks safety fund created under section 14.

13 (13) On or after the effective date of this act, a local
14 unit of government may adopt an ordinance permitting and
15 regulating the sale of low-grade fireworks from a tent. A local
16 unit of government's regulation of tent sales shall include, but
17 may exceed, the requirements for the sale of low-grade fireworks
18 from tents provided in this act. Low-grade fireworks shall not be
19 sold from tents unless the local unit of government has adopted
20 an ordinance permitting those sales.

21 Sec. 6. (1) The legislative body of a local unit of
22 government may issue a permit to a person allowing the person to
23 use articles pyrotechnic, special effects, and display fireworks
24 if all of the following conditions are met:

25 (a) The person applies for and obtains a permit from the
26 local unit of government where the articles pyrotechnic, special
27 effects, or display fireworks will be used.

1 (b) The application contains all of the following:

2 (i) The name of the individual who will detonate the articles
3 pyrotechnic, special effects, or display fireworks.

4 (ii) A brief summary of the experience of the individual
5 described in subparagraph (i) sufficient to establish that the
6 individual is competent to officiate the public detonation and
7 display of fireworks under this section.

8 (iii) The application fee as determined by the bureau.

9 (iv) Proof of financial responsibility by bond or insurance
10 in an amount, character, and form the bureau considers necessary
11 to satisfy claims for damages to property or personal injury
12 arising out of an act or omission on the part of the person and
13 to protect the public.

14 (v) The location and scheduled date of the publication and
15 display of fireworks.

16 (vi) The name and address of the applicant's resident agent
17 in this state.

18 (c) The application for a permit under this section shall be
19 received, along with the applicable fee, not less than 30 days
20 before the public detonation and display is to take place.

21 (2) A person who will detonate the articles pyrotechnic,
22 special effects, or display fireworks shall maintain a resident
23 agent who resides in this state and who has a physical address in
24 this state. A post office box is not a physical address for
25 purposes of this subsection.

26 (3) A person who has 1 or more convictions for violating
27 this act shall not officiate, or be issued a permit to officiate,

1 a public detonation and display of fireworks for not less than 1
2 year after his or her latest conviction for a violation of this
3 act.

4 (4) The legislative body of a local unit of government may
5 grant a permit to a display fireworks dealer allowing the display
6 fireworks dealer to have in his or her possession individual
7 articles pyrotechnic, special effects, and display fireworks for
8 sale as provided in this subsection. The application shall be in
9 writing on forms approved by the bureau and accompanied by a fee
10 and information as required by the bureau. A permit issued under
11 this subsection is not transferable. The local unit of government
12 shall not issue a permit under this subsection to a minor. The
13 local unit of government shall rule on the competency and
14 qualifications of applicants under this subsection based on the
15 submitted application material and on the time, place, and safety
16 aspects of the display before issuing a permit.

17 (5) Fees collected under this section shall be deposited in
18 the fireworks safety fund created under section 14.

19 Sec. 7. All of the following apply to the sale or storage of
20 fireworks in this state, as applicable:

21 (a) All fireworks and fireworks products sold in this state
22 shall satisfy the minimum standards of the United States consumer
23 product safety commission and shall be tested, or certified, or
24 both tested and certified by a third-party testing agency
25 recognized by the United States consumer product safety
26 commission.

27 (b) Storage of fireworks at the site of a wholesaler or

1 dealer shall follow the distance requirements identified and in
2 compliance with NFPA 1123 and NFPA 1124 and required under
3 federal law.

4 (c) An individual who has been convicted of a felony shall
5 not be permitted to hold any interest in a business licensed in
6 this state to sell fireworks.

7 (d) Not less than 1 management level employee of an RSF
8 where consumer fireworks other than low-grade fireworks are sold
9 shall have appropriate and approved training in the handling of
10 consumer fireworks. Appropriate and approved training shall be in
11 accordance with the guidelines promulgated by the bureau. The
12 bureau shall maintain a list of individuals who have successfully
13 completed approved training.

14 (e) All RSFs and buildings where fireworks are stored shall
15 be inspected by the state fire marshal or an employee of the
16 state fire marshal's office prior to initial certification under
17 this act and thereafter at least annually before the prime
18 fireworks sales season.

19 Sec. 8. A wholesaler shall maintain a resident agent who
20 resides in this state and who has a physical address in this
21 state. A post office box is not a physical address for purposes
22 of this section.

23 Sec. 9. An individual shall not possess, purchase, or sell
24 consumer fireworks while under the influence of alcoholic liquor,
25 a controlled substance, or a combination of alcoholic liquor and
26 a controlled substance.

27 Sec. 10. (1) A person shall not smoke in a building or tent

1 where low-grade fireworks are sold, in an RSF, or within 50 feet
2 of an RSF. A person who violates this section is guilty of a
3 misdemeanor punishable by imprisonment for not more than 1 year
4 or a fine of not more than \$1,000.00, or both.

5 (2) Signage stating the smoking prohibition described in
6 subsection (1) and its associated penalties shall be erected and
7 shall be of a number and type and placed as determined by rule
8 promulgated under this act.

9 Sec. 11. (1) A user fee, known as the fireworks safety fee,
10 is imposed on retail transactions made in this state for
11 fireworks as provided in section 12.

12 (2) A person who acquires fireworks in a retail transaction
13 is liable for the fireworks safety fee on the transaction and,
14 except as otherwise provided in this act, shall pay the fireworks
15 safety fee to the retailer as a separate added amount to the
16 consideration in the transaction. The retailer shall collect the
17 fireworks safety fee as an agent for the state.

18 (3) The fireworks safety fee shall be deposited in the
19 fireworks safety fund created under section 14.

20 (4) A person who fails to collect or remit a fireworks
21 safety fee as required under this section is guilty of a
22 misdemeanor punishable by a fine of not more than \$10,000.00. In
23 addition, the person is ineligible to obtain a fireworks
24 certificate for 1 year after conviction.

25 Sec. 12. (1) Except as provided in subsections (2) and (3),
26 the fireworks safety fee is determined by the gross retail income
27 from fireworks received by a retail merchant in a retail unitary

1 transaction of fireworks and is imposed at the following rates:

2	FIREWORKS		GROSS RETAIL INCOME	
3	SAFETY		FROM THE	
4	FEE		RETAIL UNITARY	
5			TRANSACTION	
6	\$ 0		less than	\$ 0.10
7	\$ 0.01	at least \$ 0.10	but less than	\$ 0.30
8	\$ 0.02	at least \$ 0.30	but less than	\$ 0.50
9	\$ 0.03	at least \$ 0.50	but less than	\$ 0.70
10	\$ 0.04	at least \$ 0.70	but less than	\$ 0.90
11	\$ 0.05	at least \$ 0.90	but less than	\$ 1.10

12 (2) On a retail unitary transaction in which the gross
 13 retail income received by the retail merchant is \$1.10 or more,
 14 the fireworks safety fee is 5% of that gross retail income.

15 (3) If the fireworks safety fee calculated under subsection
 16 (1) results in a fraction of 1/2 cent or more, the amount of the
 17 fireworks safety fee shall be rounded to the next additional
 18 cent.

19 (4) The retailer may retain 1% of the fireworks safety fees
 20 that the retailer collected under this section as a collection
 21 allowance.

22 Sec. 13. A retailer shall remit monthly the fireworks safety
 23 fee as described in section 12 to the department of treasury of
 24 this state on forms and in the manner prescribed by that
 25 department, holds the fireworks safety fees collected in trust
 26 for the state until remitted to the state, and is personally
 27 liable for the payment of the fireworks safety fee money to this

1 state.

2 Sec. 14. (1) The fireworks safety fund is created within the
3 state treasury.

4 (2) The state treasurer may receive money or other assets
5 from any source for deposit into the fund. The state treasurer
6 shall direct the investment of the fund. The state treasurer
7 shall credit to the fund interest and earnings from fund
8 investments.

9 (3) Money in the fund at the close of the fiscal year shall
10 remain in the fund and shall not lapse to the general fund.

11 (4) The bureau shall expend money deposited in the fund to
12 carry out the purposes of this act and the fire prevention code,
13 1941 PA 207, MCL 29.1 to 29.33.

14 Sec. 15. (1) The bureau shall promulgate rules under the
15 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
16 24.328, to administer this act, including, but not limited to,
17 all of the following:

18 (a) Create uniform applications and other forms for
19 dissemination to and use by local units of government under this
20 act.

21 (b) Procedures for the collection of application fees and
22 fireworks safety fees.

23 (c) Enforcement of regulatory duties.

24 (d) The enforcement of age limitations.

25 (e) The criteria to be used by local units of government for
26 granting permits for supervised public detonation or displays of
27 fireworks and display fireworks dealers under section 6.

1 (f) Establish the fee for a permit under section 6, which
2 shall be deposited to the fireworks safety fund created under
3 section 14.

4 (2) Rules promulgated under this section shall conform to
5 the following codes developed by the national fire protection
6 association, except for any code provision that conflicts with
7 this act:

8 (a) NFPA 1123.

9 (b) NFPA 1124.

10 (c) NFPA 1126.

11 Sec. 16. (1) The bureau may delegate authority and
12 responsibility to local fire officials to carry out inspections
13 and other duties under this act. If authority and responsibility
14 are delegated, delegation shall be in the same manner as
15 delegation under section 2b of the fire prevention code, 1941 PA
16 207, MCL 29.2b. If delegation occurs under this section, 80% of
17 the cost of performing the delegated operations shall be
18 transferred to the local unit of government that performs the
19 operation.

20 (2) The state fire marshal's office shall pay the funds to
21 the local units of government to the extent described in
22 subsection (1).

23 (3) The bureau shall enter into a contract with local fire
24 officials performing delegated enforcement of this act under
25 subsection (1). The contract shall clearly state the authority
26 and responsibilities delegated to the local fire officials for
27 enforcing this act.

1 Sec. 17. (1) A person shall only produce or transport, or
2 produce and transport, a firework that is a new explosive and
3 that is either a division 1.3 or division 1.4 explosive if the
4 person first meets the applicable requirements of 49 CFR 173.56.

5 (2) As used in this section:

6 (a) "Division 1.3 explosive" means that term as defined in
7 49 CFR 173.50.

8 (b) "Division 1.4 explosive" means that term as defined in
9 49 CFR 173.50.

10 (c) "New explosive" means that term as defined in 49 CFR
11 173.56.

12 Sec. 18. (1) A person shall not ignite, discharge, or use
13 consumer fireworks on public property, school property, church
14 property, or the property of another person without that
15 organization's or person's express permission to use those
16 fireworks on those premises. Except as otherwise provided in this
17 subsection, a person who violates this subsection is responsible
18 for a state civil infraction and may be ordered to pay a civil
19 fine of not more than \$500.00. A person who commits a second or
20 subsequent violation of this subsection within 5 years of a prior
21 violation of this subsection is guilty of a misdemeanor
22 punishable by imprisonment for not more than 30 days or a fine of
23 not more than \$1,000.00, or both.

24 (2) A minor shall not possess, purchase, or offer for sale
25 consumer fireworks. Except as otherwise provided in this
26 subsection, a person who violates this subsection is responsible
27 for a state civil infraction and may be ordered to pay a civil

1 fine of not more than \$500.00 for each day that the violation
2 occurred. This age requirement shall be verified by any of the
3 following:

4 (a) An operator's or chauffeur's license issued under the
5 Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

6 (b) An official state personal identification card issued
7 under 1972 PA 222, MCL 28.291 to 28.300.

8 (c) An enhanced driver license or enhanced official state
9 personal identification card issued under the enhanced driver
10 license and enhanced official state personal identification card
11 act, 2008 PA 23, MCL 28.301 to 28.308.

12 (d) A military identification card.

13 (e) A passport.

14 (f) Any other bona fide photograph identification that
15 establishes the identity and age of the individual.

16 (3) Except as otherwise provided in this subsection, a
17 person shall not ignite, discharge, or use consumer fireworks
18 after 12 midnight and before 10 a.m. However, on a legal holiday,
19 a person shall not ignite, discharge, or use consumer fireworks
20 between 1 a.m. and 9 a.m. of the same day. A person who violates
21 this subsection is responsible for a state civil infraction and
22 may be ordered to pay a civil fine of not more than \$500.00 for
23 each day that the violation occurred. However, a person who
24 commits a second or subsequent violation of this subsection
25 within 5 years of a prior violation of this subsection is guilty
26 of a misdemeanor punishable by imprisonment for not more than 30
27 days or a fine of not more than \$500.00 for each day that the

1 violation occurred, or both.

2 (4) Unless otherwise provided in this act, if a person
3 violates this act, the person is guilty of a crime as follows:

4 (a) Except as otherwise provided in this section, a
5 misdemeanor punishable by imprisonment for not more than 30 days
6 or a fine of not more than \$1,000.00, or both.

7 (b) If the violation causes damage to the property of
8 another person, a misdemeanor punishable by imprisonment for not
9 more than 90 days or a fine of not more than \$5,000.00, or both.

10 (c) If the violation causes serious impairment of a body
11 function of another person, a felony punishable by imprisonment
12 for not more than 5 years or a fine of not more than \$5,000.00,
13 or both. As used in this subdivision, "serious impairment of a
14 body function" means that term as defined in section 58c of the
15 Michigan vehicle code, 1949 PA 300, MCL 257.58c.

16 (d) If the violation causes the death of another person, a
17 felony punishable by imprisonment for not more than 15 years or a
18 fine of not more than \$10,000.00, or both.

19 Sec. 19. In addition to any other penalty imposed for the
20 violation of this act, a person who is found guilty of a
21 violation of this act shall be required to reimburse the
22 appropriate governmental agency for the costs of storing seized
23 fireworks that the governmental agency confiscated for a
24 violation of this act. This reimbursement shall be in a form and
25 at a time as required by the state fire marshal and as otherwise
26 required by law.

27 Sec. 20. (1) A governmental agency that identifies a

1 facility or firework that is in violation of this act, or person
2 who is in possession of a firework in violation of this act,
3 shall secure the firework and immediately notify the bureau of
4 the suspected violation. The bureau shall investigate the
5 suspected violation for compliance with this act within a
6 reasonable time.

7 (2) If the bureau determines that a violation of this act
8 has occurred, the bureau may seize the firework as evidence of
9 the violation. Evidence seized under this section shall be stored
10 pending disposition of any criminal or civil proceedings arising
11 from a violation of this act at the expense of the person, if the
12 person is found guilty, responsible, or liable for the violation.

13 Sec. 21. The state fire marshal shall create and maintain,
14 or cause to be created and maintained, an internet website that
15 has as its purpose the protection of the residents of this state
16 who purchase, use, or transport fireworks. The website shall
17 maintain a list of every person and entity that is issued a
18 fireworks certificate.

19 Sec. 22. This act does not prohibit any of the following:

20 (a) A wholesaler, retailer, manufacturer, or importer from
21 selling, storing, using, transporting, or distributing consumer
22 fireworks.

23 (b) The use of fireworks by railroads or other
24 transportation agencies or law enforcement agencies for signal
25 purposes or illumination.

26 (c) The use of agricultural or wildlife fireworks.

27 (d) The sale or use of blank cartridges for any of the

1 following:

2 (i) A show or play.

3 (ii) Signal or ceremonial purposes in athletics or sports.

4 (iii) Use by military organizations.

5 (iv) Use by law enforcement agencies.

6 (e) The possession, sale, or disposal of fireworks

7 incidental to the public display of fireworks by wholesalers or

8 other persons who possess a permit to possess, store, and sell

9 explosives from the bureau of alcohol, tobacco, firearms, and

10 explosives of the United States department of justice.

11 (f) Interstate wholesalers from selling, storing, using,

12 transporting, or distributing fireworks.

13 (g) Local units of government from adopting an ordinance

14 prohibiting the sale of low-grade fireworks from tents.

15 Sec. 23. Except as provided in this act, a local unit of

16 government shall not enact or enforce an ordinance or regulation

17 pertaining to or in any manner regulating the sale, storage,

18 transportation, or distribution of fireworks regulated under this

19 act.

20 Sec. 24. (1) Fireworks are solely regulated under this act.

21 Fireworks seized for a suspected violation of this act shall be

22 stored in compliance with this act and rules promulgated under

23 this act.

24 (2) Following final disposition of a conviction for

25 violating this act, the seizing agency shall destroy fireworks

26 retained as evidence in that prosecution. However, if the

27 fireworks are determined to constitute hazardous waste as that

1 term is defined in section 11103 of the natural resources and
2 environmental protection act, 1994 PA 451, MCL 324.11103, the
3 fireworks shall be disposed of by the department of natural
4 resources and environment as required under part 111 of the
5 natural resources and environmental protection act, 1994 PA 451,
6 MCL 324.11101 to 324.11153.

7 Enacting section 1. Chapter XXXIX of the Michigan penal
8 code, 1931 PA 328, MCL 750.243a to 750.243e, is repealed.