

HOUSE BILL No. 5327

February 9, 2016, Introduced by Reps. Chirkun, Howrylak and Yanez and referred to the Committee on Regulatory Reform.

A bill to amend 2011 PA 256, entitled
"Michigan fireworks safety act,"
by amending sections 2 and 7 (MCL 28.452 and 28.457), section 2 as
amended by 2012 PA 257 and section 7 as amended by 2013 PA 65.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Agricultural and wildlife fireworks" means fireworks
3 devices distributed to farmers, ranchers, and growers through a
4 wildlife management program administered by the United States
5 ~~department~~**DEPARTMENT** of the ~~interior~~**INTERIOR** or the department of
6 natural resources of this state.

7 (b) "APA standard 87-1" means 2001 APA standard 87-1, standard
8 for construction and approval for transportation of fireworks,

1 novelties, and theatrical pyrotechnics, published by the American
2 ~~pyrotechnics association~~ **PYROTECHNICS ASSOCIATION** of Bethesda,
3 Maryland.

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

10 (d) "Citation" means that term as described in section 17a.

11 (e) "Commercial manufacturer" means a person engaged in the
12 manufacture of consumer fireworks.

13 (f) "Consumer fireworks" means fireworks devices that are
14 designed to produce visible effects by combustion, that are
15 required to comply with the construction, chemical composition, and
16 labeling regulations promulgated by the United States ~~consumer~~
17 ~~product safety commission~~ **CONSUMER PRODUCT SAFETY COMMISSION** under
18 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-
19 1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks ~~does~~ **DO** not include
20 low-impact fireworks.

21 (g) "Consumer fireworks certificate" means a certificate
22 issued under section 4.

23 (h) "Department" means the department of licensing and
24 regulatory affairs.

25 (i) "Display fireworks" means large fireworks devices that are
26 explosive materials intended for use in fireworks displays and
27 designed to produce visible or audible effects by combustion,

1 deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR
2 172, and APA standard 87-1, 4.1.

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

9 (k) "Fireworks safety fund" means the fireworks safety fund
10 created in section 11.

11 (l) "Local unit of government" means a city, village, or
12 township.

13 (m) "Low-impact fireworks" means ground and handheld sparkling
14 devices as that phrase is defined under APA standard 87-1, 3.1,
15 3.1.1.1 to 3.1.1.8, and 3.5.

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

18 (O) **"NATIONAL HOLIDAY" MEANS A NATIONALLY RECOGNIZED HOLIDAY**
19 **EXCLUDING LABOR DAY, COLUMBUS DAY, VETERANS' DAY, THANKSGIVING,**
20 **CHRISTMAS, MARTIN LUTHER KING DAY, PRESIDENTS DAY, AND EASTER.**

21 (P) ~~(e)~~-"NFPA" means the ~~national fire protection association~~
22 **NATIONAL FIRE PROTECTION ASSOCIATION** headquartered at 1
23 Battery March Park, Quincy, Massachusetts.

24 (Q) ~~(p)~~-"NFPA 1" means the uniform fire code, 2006 edition,
25 developed by NFPA.

26 (R) ~~(q)~~-"NFPA 72" means the "National Fire Alarm Code", 2002
27 edition, developed by NFPA.

1 (S) ~~(r)~~—"NFPA 101" means the "Life Safety Code", 2009 edition,
2 developed by NFPA.

3 (T) ~~(s)~~—"NFPA 1123" means the "Code for Fireworks Display",
4 2010 edition, developed by NFPA.

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

8 (V) ~~(u)~~—"NFPA 1126" means the "Standard for the Use of
9 Pyrotechnics Before a Proximate Audience", 2011 edition, developed
10 by NFPA.

11 (W) ~~(v)~~—"Novelties" means that term as defined under APA
12 standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all
13 of the following:

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

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

24 (iii) Flitter sparklers in paper tubes not exceeding 1/8 inch
25 in diameter.

26 (iv) Toy snakes not containing mercury, if packed in cardboard
27 boxes with not more than 12 pieces per box for retail sale and if

1 the manufacturer's name and the quantity contained in each box are
2 printed on the box; and toy smoke devices.

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

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

12 **(Z)** ~~(y)~~—"Retailer" means a person who sells consumer fireworks
13 or low-impact fireworks for resale to an individual for ultimate
14 use.

15 **(AA)** ~~(z)~~—"Retail location" means a facility listed under NFPA
16 1124, 7.1.2.

17 **(BB)** ~~(aa)~~—"Rule" means that term as defined in section 7 of
18 the administrative procedures act of 1969, 1969 PA 306, MCL 24.207,
19 that was promulgated by the department.

20 **(CC)** ~~(bb)~~—"Serious impairment of a body function" means that
21 term as defined in section 58c of the Michigan vehicle code, 1949
22 PA 300, MCL 257.58c.

23 **(DD)** ~~(cc)~~—"Serious violation" means a violation of this act,
24 an order issued under this act, or a rule promulgated or adopted by
25 reference under this act for which a substantial probability exists
26 that death or serious impairment of a body function to a person
27 other than the violator may result unless the violator did not and

1 could not, with the exercise of reasonable diligence, know of the
2 presence of the violation.

3 **(EE)** ~~(dd)~~—"Special effects" means a combination of chemical
4 elements or chemical compounds capable of burning independently of
5 the oxygen of the atmosphere and designed and intended to produce
6 an audible, visual, mechanical, or thermal effect as an integral
7 part of a motion picture, radio, television, theatrical, or opera
8 production or live entertainment.

9 **(FF)** ~~(ee)~~—"State fire marshal" means the state fire marshal
10 appointed under section 1b of the fire prevention code, 1941 PA
11 207, MCL 29.1b.

12 **(GG)** ~~(ff)~~—"Warehouse" means a permanent building or structure
13 used primarily for the storage of consumer fireworks or low-impact
14 fireworks.

15 **(HH)** ~~(gg)~~—"Wholesaler" means any person who sells consumer
16 fireworks or low-impact fireworks to a retailer or any other person
17 for resale. Wholesaler does not include a person who sells only
18 display fireworks or special effects.

19 Sec. 7. (1) Except as provided in this act, a local unit of
20 government shall not enact or enforce an ordinance, code, or
21 regulation pertaining to or in any manner regulating the sale,
22 display, storage, transportation, or distribution of fireworks
23 regulated under this act.

24 **(2) A LOCAL UNIT OF GOVERNMENT MAY ENACT AND ENFORCE AN**
25 **ORDINANCE REGULATING NOISE LEVEL PERTAINING TO THE USE OF FIREWORKS**
26 **REGULATED UNDER THIS ACT.**

27 **(3)** ~~(2)~~—A local unit of government may enact an ordinance

1 regulating the ignition, discharge, and use of consumer fireworks,
2 including, but not limited to, an ordinance prescribing the hours
3 of the day or night during which a person may ignite, discharge, or
4 use consumer fireworks. ~~IF EXCEPT FOR A NOISE ORDINANCE ENACTED OR~~
5 **ENFORCED UNDER SUBSECTION (2), IF** a local unit of government enacts
6 an ordinance under this subsection, the ordinance shall not
7 regulate the ignition, discharge, or use of consumer fireworks on
8 the day preceding, the day of, or the day after a national holiday,
9 except as follows:

10 ~~—— (a) A THAT A~~ local unit of government ~~with a population of~~
11 ~~50,000 or more or a local unit of government located in a county~~
12 ~~with a population of 750,000 or more~~ may regulate the ignition,
13 discharge, or use of consumer fireworks between the hours of ~~12~~
14 ~~midnight~~ **11 P.M.** and ~~8~~ **10 a.m.** or between the hours of 1 a.m. and 8
15 a.m. on New Year's ~~day~~ **DAY.**

16 ~~—— (b) A local unit of government with a population of less than~~
17 ~~50,000 located in a county with a population of less than 750,000~~
18 ~~may regulate the ignition, discharge, or use of consumer fireworks~~
19 ~~between the hours of 1 a.m. and 8 a.m.~~

20 **(4) A LOCAL UNIT OF GOVERNMENT WITH A POPULATION OF 75,000 OR**
21 **MORE OR A LOCAL UNIT OF GOVERNMENT LOCATED IN A COUNTY WITH A**
22 **POPULATION OF 750,000 OR MORE MAY ENACT AN ORDINANCE REGULATING THE**
23 **SALE OF CONSUMER FIREWORKS FROM RETAIL LOCATIONS THAT CONDUCT**
24 **CONSUMER FIREWORKS SALES FROM TENTS. REGULATIONS ESTABLISHED UNDER**
25 **THIS SUBSECTION MAY PROHIBIT THE SALE OF CONSUMER FIREWORKS FROM**
26 **TENTS AND REQUIRE SALES BE CONDUCTED AT A PERMANENT BUILDING OR**
27 **STRUCTURE.**

1 (5) ~~(3)~~An ordinance under subsection (2), (3), OR (4) shall
2 only impose a civil fine of not more than ~~\$500.00~~**\$1,000.00** for
3 each violation of the ordinance and no other fine or sanction.

4 Enacting section 1. This amendatory act takes effect 90 days
5 after the date it is enacted into law.