

HOUSE BILL No. 5939

May 8, 2018, Introduced by Reps. Lilly, Farrington, Pagan, Vaupel, Lucido, Chirkun, Yaroach, Howell, Hornberger, Victory, Crawford, Miller, Kelly, Lasinski, VanderWall, Hammoud and Hoadley and referred to the Committee on Regulatory Reform.

A bill to amend 2011 PA 256, entitled "Michigan fireworks safety act," by amending sections 4, 5, 6, and 7 (MCL 28.454, 28.455, 28.456, and 28.457), sections 4, 5, and 7 as amended by 2013 PA 65.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) A person shall not sell consumer fireworks unless
2 the person annually obtains and maintains a consumer fireworks
3 certificate from the department under this section. A person who
4 knows, or should know, that he or she is required to comply with
5 this subsection and who fails or neglects to ~~do so~~ **COMPLY WITH THIS**
6 **SUBSECTION** is guilty of a misdemeanor punishable by imprisonment
7 for not more than 2 years or a fine, or both, with the fine as
8 follows:

1 (a) For a first violation of this subsection, not more than
2 \$5,000.00.

3 (b) For a second violation of this subsection, not more than
4 \$20,000.00.

5 (c) For a third or subsequent violation of this subsection,
6 not more than \$40,000.00.

7 (2) An ~~application~~ **APPLICANT** for a consumer fireworks
8 certificate shall ~~meet~~ **DO** all of the following: ~~requirements:~~

9 (a) ~~The application shall be submitted~~ **SUBMIT AN APPLICATION**
10 no later than April 1 of each year in which **THE APPLICANT WILL SELL**
11 consumer fireworks. ~~are to be sold.~~

12 (b) ~~The application shall list~~ **LIST ON THE APPLICATION** the
13 name and address of each retail location from which **THE APPLICANT**
14 **WILL SELL** consumer fireworks. ~~are to be sold.~~

15 (c) ~~The application shall be accompanied by~~ **SUBMIT WITH THE**
16 **APPLICATION** a **CONSUMER FIREWORKS CERTIFICATE** fee of \$1,000.00 for a
17 ~~certificate for~~ each retail location that is a permanent building
18 or structure or \$600.00 for each retail location that is not a
19 permanent building or structure. The **CONSUMER** fireworks certificate
20 fee required ~~to be paid~~ for a retail location that is not a
21 permanent building or structure shall **MUST** not exceed 60% of the
22 **CONSUMER** fireworks certificate fee for a retail location that is a
23 permanent building or structure. **AN APPLICANT WHO APPLIES FOR A**
24 **CONSUMER FIREWORKS CERTIFICATE FOR A RETAIL LOCATION THAT IS NOT A**
25 **PERMANENT BUILDING OR STRUCTURE AND WHO DOES NOT HOLD A CONSUMER**
26 **FIREWORKS CERTIFICATE FOR A PERMANENT BUILDING OR STRUCTURE SHALL**
27 **FILE WITH THE DEPARTMENT OF TREASURY A BOND IN THE AMOUNT OF**

1 \$5,000.00 TO SECURE THE COLLECTION OF ESTIMATED SALES TAX AND
2 FIREWORKS SAFETY FEES.

3 (d) ~~The application shall be accompanied by~~ **SUBMIT WITH THE**
4 **APPLICATION** a copy of the applicant's current sales tax license,
5 including the applicant's account number, issued by the department
6 of treasury for each retail location where **THE APPLICANT WILL SELL**
7 consumer fireworks. ~~are to be sold by the applicant.~~

8 (3) A consumer fireworks certificate issued under this section
9 is valid from the date of issue until April 30 of the year after it
10 was issued. A person may renew a consumer fireworks certificate for
11 a retail location by making application in the same manner as
12 provided under subsection (2). ~~However, the~~ **THE** department shall
13 not issue a renewal consumer fireworks certificate unless the
14 department determines that the applicant properly remitted all of
15 the **REQUIRED** fireworks safety fees ~~required to be paid in the~~
16 ~~preceding year.~~ **AND SALES TAX FOR ANY OF THE PRECEDING 5 YEARS THAT**
17 **THE APPLICANT HELD A CONSUMER FIREWORKS CERTIFICATE.** The department
18 shall provide to the department of treasury the sales tax license
19 information received from the applicant and any additional
20 information as may be necessary to allow the department of treasury
21 to confirm that each sales tax license submitted by the applicant
22 is current and valid. The department shall enter into an agreement
23 with the department of treasury under section 28(1) of 1941 PA 122,
24 MCL 205.28, that will allow the department of treasury to provide
25 that information to the department. The department shall not issue
26 an original or renewal consumer fireworks certificate to an
27 applicant until the department of treasury has confirmed to the

1 department that each sales tax license submitted by the applicant
2 is current and valid, and that the applicant is otherwise eligible
3 to obtain a consumer fireworks certificate under this act.

4 (4) Not more than 30 days after an application is submitted to
5 the department under this section, the department shall issue ~~or~~
6 ~~deny issuance of a~~ consumer fireworks certificate to the applicant
7 ~~and, if issuance is denied,~~ **OR DENY THE APPLICATION. IF THE**
8 **DEPARTMENT DENIES THE APPLICATION, THE DEPARTMENT** shall indicate to
9 the applicant the reason for denial.

10 (5) If the department denies ~~issuance of~~ **AN APPLICATION FOR** a
11 consumer fireworks certificate under this section, the applicant
12 may cure any defect ~~of~~ **IN** the application within 45 days after the
13 denial without paying an additional fee. The department shall not
14 unreasonably delay or deny an application under this section.

15 (6) A consumer fireworks certificate is transferable upon
16 approval by the department and the payment of a \$25.00 transfer
17 fee. ~~However, the~~ **THE** department shall not approve the transfer of
18 a consumer fireworks certificate unless the transferee satisfies
19 **THE** eligibility requirements for an original consumer fireworks
20 certificate under this act. **THE DEPARTMENT SHALL NOT PROCESS A**
21 **REQUEST FOR A TRANSFER OF LOCATION BETWEEN JUNE 1 AND JULY 31.**

22 (7) The holder of a consumer fireworks certificate shall
23 prominently display the original or **A** copy of the certificate in
24 the appropriate retail location. A person that violates this
25 subsection is responsible for a civil fine of \$100.00. Each day
26 that the **HOLDER OF A** consumer fireworks certificate ~~is not~~
27 ~~displayed~~ **FAILS TO DISPLAY THE CERTIFICATE** as required under this

1 subsection is a separate violation.

2 (8) The department shall not issue a consumer fireworks
3 certificate to a person that is ineligible under this act.

4 (9) The face of the consumer fireworks certificate ~~shall~~**MUST**
5 indicate the location or address for which it was issued.

6 (10) Fees collected under this section ~~shall~~**MUST** be deposited
7 in the fireworks safety fund.

8 Sec. 5. (1) ~~Consumer~~**A PERSON SHALL NOT SELL CONSUMER**
9 fireworks ~~shall only be sold from a retail location if~~**UNLESS** all
10 of the following ~~applicable~~ conditions are met:

11 (a) Except as provided in subdivision (b), a retail location
12 satisfies the applicable requirements of NFPA 101 and NFPA 1124
13 **THAT ARE** not in conflict with this act, and the Stille-DeRossett-
14 Hale single state construction code act, 1972 PA 230, MCL 125.1501
15 to 125.1531. ~~However, any~~**ANY** provision of the Stille-DeRossett-
16 Hale single state construction code act, 1972 PA 230, MCL 125.1501
17 to 125.1531, that is inconsistent with the applicable requirements
18 of NFPA 101 and NFPA 1124 is superseded to the extent of the
19 inconsistency or conflict.

20 (b) ~~Beginning January 1, 2013, a~~**A** permanent building or
21 structure ~~shall be~~**IS** equipped with a fire suppression system in
22 compliance with NFPA 1124. **BEGINNING ON THE EFFECTIVE DATE OF THE**
23 **2018 ACT THAT AMENDED THIS SUBDIVISION AND NOTWITHSTANDING THE NFPA**
24 **1124 REQUIREMENTS REGARDING AUTOMATIC SPRINKLER SYSTEMS, A RETAIL**
25 **LOCATION IN A PERMANENT MULTITENANT BUILDING OR STRUCTURE MUST BE**
26 **EQUIPPED WITH AN AUTOMATIC SPRINKLER SYSTEM. THE REQUIREMENT FOR AN**
27 **AUTOMATIC SPRINKLER SYSTEM DESCRIBED IN THIS SUBDIVISION DOES NOT**

1 APPLY TO A RETAIL LOCATION OF A PERSON THAT HELD A CONSUMER
2 FIREWORKS CERTIFICATE FOR A RETAIL LOCATION OF THE SAME ADDRESS IN
3 A PERMANENT BUILDING OR STRUCTURE DURING THE CALENDAR YEAR BEFORE
4 THE EFFECTIVE DATE OF THE 2018 ACT THAT AMENDED THIS SUBDIVISION.

5 (c) The retailer at that retail location is licensed under
6 section 3 of the general sales tax act, 1933 PA 167, MCL 205.53.

7 (d) The retailer has a valid federal taxpayer identification
8 number. ~~issued by the federal department of the treasury, internal~~
9 ~~revenue service.~~ This requirement does not apply to a retailer that
10 is a sole proprietorship.

11 (2) A person that knows, or should know, that he or she is
12 required to comply with subsection (1) and who fails or neglects to
13 ~~do so~~ **COMPLY WITH SUBSECTION (1)** is responsible for a civil fine of
14 \$2,500.00 for each violation. Each day that a person is in
15 noncompliance ~~constitutes~~ **IS** a separate violation.

16 (3) ~~During periods when~~ **WHEN A PERSON IS SELLING** consumer
17 fireworks, ~~are sold, each retail location selling consumer~~
18 ~~fireworks either shall be added~~ **THE PERSON SHALL ADD** as an
19 additional insured, or **OBTAIN AND MAINTAIN** public liability and
20 product liability insurance coverage ~~shall be obtained and~~
21 ~~maintained,~~ **FOR, EACH RETAIL LOCATION SELLING CONSUMER FIREWORKS** in
22 an amount not less than \$10,000,000.00 per occurrence. A person
23 that knows, or should know, that he or she is required to comply
24 with this subsection and who fails or neglects to ~~do so~~ **COMPLY WITH**
25 **THIS SUBSECTION** is ~~liable~~ **RESPONSIBLE** for a civil fine of not more
26 than \$5,000.00.

27 (4) **THE DEPARTMENT SHALL PREPARE A NOTICE OF THE TIMES**

1 PERMITTED UNDER THIS ACT FOR THE IGNITION, DISCHARGE, AND USE OF
2 CONSUMER FIREWORKS AND MAKE THE NOTICE AVAILABLE ON THE
3 DEPARTMENT'S WEBSITE. THE NOTICE SHALL NOT BE LARGER THAN 8-1/2
4 INCHES BY 11 INCHES. A RETAILER SHALL PROVIDE AT THE TIME OF
5 PURCHASE THE NOTICE PREPARED BY THE DEPARTMENT TO A PERSON WHO
6 PURCHASES CONSUMER FIREWORKS FROM THE RETAILER OR PROMINENTLY
7 DISPLAY THE NOTICE IN A CONSPICUOUS LOCATION NEAR EACH POINT OF
8 PURCHASE AT THE RETAIL LOCATION. A PERSON WHO FAILS TO PROVIDE OR
9 DISPLAY THE NOTICE REQUIRED BY THIS SUBSECTION IS RESPONSIBLE FOR A
10 CIVIL FINE OF \$500.00 FOR EACH VIOLATION. THE DEPARTMENT SHALL
11 PROVIDE FOR THE REMITTANCE OF THE FINE COLLECTED UNDER THIS
12 SUBSECTION TO THE LOCAL LAW ENFORCEMENT AGENCY RESPONSIBLE FOR
13 ENFORCING THE NOTICE REQUIREMENT.

14 Sec. 6. (1) The department shall establish and maintain, or
15 cause to be ~~created~~**ESTABLISHED** and maintained, an internet website
16 that has as its purpose the protection of the residents of this
17 state who purchase, use, or transport fireworks. The website ~~shall~~
18 **MUST** include, ~~at a minimum,~~**BUT IS NOT LIMITED TO**, both of the
19 following:

20 (a) A list of every person and entity that is issued a
21 consumer fireworks certificate under section 4.

22 (b) A low-impact fireworks retail registry. All of the
23 following apply to the online low-impact fireworks retail registry:

24 (i) It ~~shall~~**MUST** be maintained and operated at no cost to a
25 user.

26 (ii) The cost of its maintenance and operation ~~shall~~**MUST** be
27 paid with funds described in section 11(4).

1 (iii) It ~~shall~~**MUST** provide for instant registry without
2 condition.

3 (2) ~~Beginning February 1, 2012, a~~**A** person shall not sell low-
4 impact fireworks unless he or she registers with the low-impact
5 fireworks retail registry not less than 10 days before selling the
6 fireworks in each calendar year. **A PERSON WHO HOLDS A VALID**
7 **CONSUMER FIREWORKS CERTIFICATE ISSUED UNDER SECTION 4 IS NOT**
8 **REQUIRED TO REGISTER WITH THE LOW-IMPACT FIREWORKS RETAIL REGISTRY.**

9 (3) A person who sells low-impact fireworks at retail and who
10 fails to register as described in this section shall cease the sale
11 of low-impact fireworks until the person complies with subsection
12 (2).

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

18 (2) A local unit of government may enact an ordinance
19 regulating the ignition, discharge, and use of consumer fireworks,
20 including, but not limited to, an ordinance prescribing the hours
21 of the day or night during which a person may ignite, discharge, or
22 use consumer fireworks. If a local unit of government enacts an
23 ordinance under this subsection, the ordinance ~~shall~~**MUST** not
24 regulate the ignition, discharge, or use of consumer fireworks on
25 the day preceding, the day of, or the day after a national holiday
26 ~~except as follows:~~**FOLLOWING DAYS:**

27 ~~(a) A local unit of government with a population of 50,000 or~~

1 ~~more or a local unit of government located in a county with a~~
 2 ~~population of 750,000 or more may regulate the ignition, discharge,~~
 3 ~~or use of consumer fireworks between the hours of 12 midnight and 8~~
 4 ~~a.m. or between the hours of 1 a.m. and 8 a.m. on New Year's day.~~

5 ~~—— (b) A local unit of government with a population of less than~~
 6 ~~50,000 located in a county with a population of less than 750,000~~
 7 ~~may regulate the ignition, discharge, or use of consumer fireworks~~
 8 ~~between the hours of 1 a.m. and 8 a.m.~~

9 (A) DECEMBER 31.

10 (B) JANUARY 1 BETWEEN 12 MIDNIGHT AND 1 A.M.

11 (C) THE SATURDAY IMMEDIATELY PRECEDING MEMORIAL DAY UNTIL
 12 11:30 P.M.

13 (D) THE FRIDAY AND SATURDAY IMMEDIATELY PRECEDING JULY 4 UNTIL
 14 11:30 P.M. ON EACH OF THOSE DAYS.

15 (E) JUNE 30 UNTIL 11:30 P.M. IF JULY 4 IS A SATURDAY OR
 16 SUNDAY.

17 (F) JULY 1 TO JULY 4 UNTIL 11:30 P.M. ON EACH OF THOSE DAYS.

18 (G) THE SATURDAY IMMEDIATELY PRECEDING LABOR DAY UNTIL 11:30
 19 P.M.

20 (3) An ordinance under subsection (2) ~~shall only~~ **MUST** impose a
 21 civil fine of ~~not more than \$500.00~~ **\$1,000.00** for each violation of
 22 the ordinance and no other fine or sanction. **THE ORDINANCE MUST**
 23 **PROVIDE FOR THE REMITTANCE OF \$500.00 OF THE FINE COLLECTED UNDER**
 24 **THE ORDINANCE DESCRIBED IN THIS SUBSECTION TO THE LOCAL LAW**
 25 **ENFORCEMENT AGENCY RESPONSIBLE FOR ENFORCING THE ORDINANCE.**

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