

SENATE BILL NO. 5

January 13, 2021, Introduced by Senator WOJNO and referred to the Committee on Regulatory Reform.

A bill to amend 2011 PA 256, entitled
"Michigan fireworks safety act,"
by amending sections 7 and 12 (MCL 28.457 and 28.462), section 7 as
amended by 2018 PA 635 and section 12 as amended by 2019 PA 138.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) Except as provided in this act, a local unit of
2 government shall not enact or enforce an ordinance, code, or
3 regulation ~~pertaining~~**that pertains** to or **regulates**, in any manner,
4 ~~regulating~~ the sale, display, storage, transportation, or
5 distribution of fireworks regulated under this act.

(2) A local unit of government may enact an ordinance ~~regulating~~**that regulates** the ignition, discharge, and use of consumer fireworks, including, but not limited to, an ordinance ~~prescribing~~**that prescribes** the hours of the day or night during which a person may ignite, discharge, or use consumer fireworks. ~~If~~
Except as otherwise provided in subsection (3), if a local unit of government enacts an ordinance under this subsection, the ordinance ~~shall~~**must** not regulate the ignition, discharge, or use of consumer fireworks on the following days after 11 a.m.:

(a) December 31 until 1 a.m. on January 1.

(b) The Saturday and Sunday immediately preceding Memorial Day until ~~11:45~~**11** p.m. on each of those days.

(c) ~~June 29 to~~ July **3 and** 4 until 11:45 p.m. on each of those days.

(d) July 5, if that date is a Friday or Saturday, until 11:45 p.m.

(e) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

(3) A local unit of government with a population density of over 3,400 per square mile may enact an ordinance that regulates the ignition, discharge, or use of consumer fireworks, except on the following days:

(a) December 31 until 1 a.m. on January 1.

(b) Memorial Day until 11 p.m.

(c) July 4 until 11:45 p.m.

(d) Labor Day until 11:45 p.m.

(4) ~~(3)~~An ordinance under subsection (2) ~~shall~~**or (3) must** impose a civil fine of ~~\$1,000.00~~**\$2,000.00** for each violation of the ordinance and no other fine or sanction. The ordinance must

1 provide for the remittance of ~~\$500.00~~ **\$1,000.00** of the fine
2 collected under the ordinance to the local law enforcement agency
3 responsible for enforcing the ordinance.

4 **(5)** ~~(4) Beginning August 1, 2019, a~~ **A** local unit of government
5 ~~with a population of 100,000 or more or a local unit of government~~
6 ~~located in a county with a population of 750,000 or more~~ may enact
7 or enforce an ordinance that regulates the use of a temporary
8 structure. An ordinance established under this subsection may
9 include, but is not limited to, a restriction on the number of
10 permits issued for a temporary structure, regulation of the
11 distance required between 2 or more temporary structures, or a
12 zoning ordinance that regulates the use of a temporary structure.
13 An ordinance established under this subsection may not prohibit the
14 temporary storage, transportation, or distribution of fireworks by
15 a consumer fireworks certificate holder at a retail location that
16 is a permanent building or structure. As used in this subsection,
17 "temporary structure" means a movable structure that is used in the
18 sale, display, storage, transportation, or distribution of
19 fireworks, including, but not limited to, a tent or a stand.

20 Sec. 12. (1) A person shall not ignite, discharge, or use
21 consumer fireworks on public property, school property, church
22 property, or the property of another person without that
23 organization's or person's express permission to use those
24 fireworks on those premises. Except as otherwise provided in this
25 section, a person that violates this subsection is responsible for
26 a state civil infraction and may be ordered to pay a civil fine of
27 not more than ~~\$500.00~~ **\$1,000.00**.

28 (2) A person shall not sell consumer fireworks to a minor. A
29 person that violates this subsection shall be ordered to pay a

1 civil fine of not more than ~~\$1,000.00, \$2,500.00~~, or, for a second
2 or subsequent violation of this subsection, a civil fine of not
3 more than ~~\$2,500.00, \$5,000.00~~. For a second or subsequent
4 violation, the department shall suspend the person's consumer
5 fireworks certificate for 90 days beginning on the date a civil
6 fine is ordered. The age of an individual ~~purchasing~~ **who purchases**
7 consumer fireworks ~~shall~~ **must** be verified by any of the following:

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

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

12 (c) An enhanced driver license or enhanced official state
13 personal identification card issued under the enhanced driver
14 license and enhanced official state personal identification card
15 act, 2008 PA 23, MCL 28.301 to 28.308.

16 (d) A military identification card.

17 (e) A passport.

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

20 (3) An individual shall not discharge, ignite, or use consumer
21 fireworks or low-impact fireworks while under the influence of
22 alcoholic liquor, a controlled substance, or a combination of
23 alcoholic liquor and a controlled substance. ~~A person that~~ **An**
24 **individual who** violates this subsection is responsible for a state
25 civil infraction and may be ordered to pay a civil fine of not more
26 than \$1,000.00. As used in this subsection:

27 (a) "Alcoholic liquor" means that term as defined in section
28 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

29 (b) "Controlled substance" means that term as defined in

1 section 8b of the Michigan vehicle code, 1949 PA 300, MCL 257.8b.

2 (4) An individual who violates the smoking prohibition
3 described in NFPA 1124, 7.3.11.1, regardless of the type or
4 quantity of consumer or low-impact fireworks present, is
5 responsible for a civil fine of \$1,000.00.

6 (5) Signage stating the smoking prohibition described in
7 subsection (4) satisfies the requirements of NFPA 1124.

8 (6) A person shall not ignite, discharge, or use consumer
9 fireworks or low-impact fireworks in a manner that is intended to
10 harass, scare, or injure livestock. As used in this subsection,
11 "livestock" means that term as defined in section 3 of the animal
12 industry act, 1988 PA 466, MCL 287.703.