

# HOUSE BILL No. 5899

June 2, 1998, Introduced by Reps. Bodem, Freeman, Dalman, Schroer, Gire, Birkholz, McBryde, Jansen, Richner, Baade and Brewer and referred to the Committee on Regulatory Affairs.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 243a and 243b (MCL 750.243a and 750.243b), section 243a 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~~ WITH AN explosive
- 3 or flammable ~~compositions~~ SUBSTANCE AND used primarily ~~for the~~
- 4 ~~purpose of producing~~ TO PRODUCE a visible display or audible
- 5 effect, or both, by combustion, deflagration, or detonation.
- 6 Fireworks includes class B fireworks and class C fireworks.
- 7       (b) "Class B fireworks" means toy torpedoes, railway torpe-
- 8 does, firecrackers or salutes that do not qualify as class C
- 9 fireworks, exhibition display pieces, aeroplane flares,
- 10 illuminating projectiles, incendiary projectiles, incendiary

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

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

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

14 (2) Except as provided in subsection (3) and sections 243b,  
15 243c, and 243d, a person ~~—, firm, partnership, or corporation—~~  
16 shall not offer for sale, expose for sale, sell at retail, keep  
17 with intent to sell at retail, possess, give, furnish, transport,  
18 use, explode, or cause to explode any of the following:

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

21 (b) An unmanned balloon which requires fire underneath to  
22 propel it and is not moored to the ground while aloft.

23 (c) Firecrackers, torpedoes, skyrockets, roman candles,  
24 daygo bombs, bottle rockets, whistling chasers, rockets on  
25 sticks, or other fireworks of like construction.

26 (d) Fireworks containing an explosive or inflammable  
27 compound or a tablet or other device commonly used and sold as

1 fireworks containing nitrates, fulminates, chlorates, oxalates,  
2 sulphides of lead, barium, antimony, arsenic, mercury, nitroglyc-  
3 erine, phosphorus, or a compound containing these or other modern  
4 explosives.

5 (3) A permit is not required for the following:

6 (a) Flat paper caps containing not more than .25 of a grain  
7 of explosive content per cap, in packages labeled to indicate the  
8 maximum explosive content per cap.

9 (b) Toy pistols, toy cannons, toy canes, toy trick noise  
10 makers, and toy guns of a type approved by the director of the  
11 department of state police in which paper caps as described in  
12 subdivision (a) are used and which are so constructed that the  
13 hand cannot come in contact with the cap when in place for the  
14 explosion and which are not designed to break apart or be sepa-  
15 rated so as to form a missile by the explosion.

16 (c) Sparklers containing not more than .0125 pounds of burn-  
17 ing portion per sparkler.

18 (d) Flitter sparklers in paper tubes not exceeding 1/8 inch  
19 in diameter, cone fountains, and cylinder fountains.

20 (e) Toy snakes not containing mercury, if packed in card-  
21 board boxes with not more than 12 pieces per box for retail sale  
22 and if the manufacturer's name and the quantity contained in each  
23 box are printed on the box; and toy smoke devices.

24 (f) Possession, transportation, sale, or use of signal  
25 flares of a type approved by the director of the department of  
26 state police, blank cartridges or blank cartridge pistols  
27 specifically for a show or theater, for the training or

1 exhibiting of dogs, for signal purposes in athletic sports, for  
2 use by military organizations, and all items described in subsec-  
3 tion (2) used by railroads for emergency signal purposes.

4 (g) The sale of fireworks, provided they are to be shipped  
5 directly out of state pursuant to regulations of the United  
6 States department of transportation covering the transportation  
7 of explosives and other dangerous articles by motor, rail, and  
8 water.

9 Sec. 243b. (1) The ~~council or commission~~ LEGISLATIVE BODY  
10 of a city or village or the township board of a township, upon  
11 application in writing, on forms provided by the director of the  
12 department of state police, may grant a permit for the use of  
13 fireworks otherwise prohibited by section 243a, within ~~their~~  
14 ~~political jurisdiction~~ THAT JURISDICTION'S BOUNDARIES, manufac-  
15 tured for outdoor pest control or agricultural purposes, or for  
16 public display by ~~municipalities~~ A MUNICIPALITY, fair  
17 ~~associations~~ ASSOCIATION, amusement ~~parks~~ PARK, or other  
18 ~~organizations~~ ORGANIZATION or ~~groups~~ GROUP of individuals,  
19 ~~approved by the city, village, or township authority,~~ if the  
20 applicable provisions of this act are complied with. The permits  
21 shall be on forms provided by the director of the department of  
22 state police. After a permit has been granted, sales, posses-  
23 sion, or transportation of fireworks for the purposes described  
24 in the permit only may be made. A permit granted under this sub-  
25 section shall not be transferable. ~~, nor shall a permit be~~  
26 ~~issued to a person under the age of 18 years.~~

1           (2) The ~~council or commission~~ LEGISLATIVE BODY of a city  
2 or village COUNCIL OR COMMISSION or the township board of a  
3 township, upon application in writing, may grant a permit, on  
4 forms provided by the director of the department of state police,  
5 to a resident wholesale dealer or jobber to have in his OR HER  
6 possession within ~~the political jurisdiction~~ THAT  
7 JURISDICTION'S BOUNDARIES, fireworks otherwise prohibited by sec-  
8 tion 243a, for sale only to holders of permits as provided in  
9 this section. A permit granted under this subsection is not  
10 transferable. ~~, nor shall a permit be issued to a person under~~  
11 ~~the age of 18 years.~~

12           (3) Before a permit for a ~~pyrotechnic~~ FIREWORKS display is  
13 issued, the person ~~, firm, or corporation~~ making THE applica-  
14 tion ~~therefor~~ shall furnish proof of financial responsibility  
15 by a bond or insurance in an amount ~~deemed~~ CONSIDERED necessary  
16 by the local ~~governing authority~~ LEGISLATIVE BODY to satisfy  
17 claims for damages to property or personal injuries arising out  
18 of an act or omission on the part of the person ~~, firm, or~~  
19 ~~corporation,~~ or an agent or employee ~~thereof,~~ OF THAT PERSON  
20 in the amount, character, and form the local ~~authority~~  
21 ~~determines~~ LEGISLATIVE BODY CONSIDERS necessary for the protec-  
22 tion of the public.

23           (4) A permit shall not be issued under this act to a nonres-  
24 ident person ~~, firm, or corporation for~~ TO conduct ~~of~~ a  
25 ~~pyrotechnic~~ FIREWORKS display in this state until the person ~~,~~  
26 ~~firm, or corporation~~ has appointed, in writing, a resident  
27 member of the bar of this state or a resident agent to be his OR

1 HER legal representative upon whom all process in an action or  
2 proceeding against ~~him~~ THAT PERSON may be served.

3       (5) ~~The~~ BEFORE GRANTING A PERMIT, THE local ~~governing~~  
4 ~~authority~~ LEGISLATIVE BODY shall ~~rule on the competency and~~  
5 ~~qualifications of operators of pyrotechnic displays, as the oper-~~  
6 ~~ator has furnished in his application form, and on~~ DETERMINE  
7 THAT THE OPERATOR OF A FIREWORKS DISPLAY IS QUALIFIED AND COMPE-  
8 TENT AND HAS SPECIFIED the time, place, and safety aspects of the  
9 displays. ~~before granting permits.~~

10       (6) A PERMIT GRANTED BY A LOCAL GOVERNING AUTHORITY SHALL  
11 REQUIRE THAT THE OPERATOR OF A FIREWORKS DISPLAY COMPLY WITH THE  
12 CODE FOR FIREWORKS DISPLAY, NFPA 1123 (1995 EDITION), ISSUED BY  
13 THE STANDARDS COUNCIL OF THE NATIONAL FIRE PROTECTION ASSOCIA-  
14 TION, INC. ON JULY 21, 1995 AND THE TENTATIVE INTERIM AMENDMENT,  
15 TIA 95-1, TO THE 1995 EDITION OF NFPA 1123, ISSUED BY THE STAN-  
16 DARDS COUNCIL ON APRIL 11, 1996.