

HOUSE BILL No. 4244

February 16, 2017, Introduced by Reps. Yanez, Pagan, Faris, Green, Schor, Sabo, Chirkun, Sowerby, Moss, Elder, Lucido, Liberati, Geiss, Yaroach and LaGrand and referred to the Committee on Regulatory Reform.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding sections 243f, 243g, 243h, 243i,
and 243j; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 243F. (1) AS USED IN THIS CHAPTER:

2 (A) "CLASS B FIREWORKS" MEANS TOY TORPEDOES, RAILWAY
3 TORPEDOES, FIRECRACKERS OR SALUTES THAT DO NOT QUALIFY AS CLASS C
4 FIREWORKS, EXHIBITION DISPLAY PIECES, AEROPLANE FLARES,
5 ILLUMINATING PROJECTILES, INCENDIARY PROJECTILES, INCENDIARY
6 GRENADES, SMOKE PROJECTILES OR BOMBS CONTAINING EXPELLING CHARGES
7 BUT WITHOUT BURSTING CHARGES, FLASH POWDERS IN INNER UNITS NOT
8 EXCEEDING 2 OUNCES EACH, FLASH SHEETS IN INTERIOR PACKAGES, FLASH
9 POWDER OR SPREADER CARTRIDGES CONTAINING NOT MORE THAN 72 GRAINS OF

1 FLASH POWDER EACH, AND OTHER SIMILAR DEVICES.

2 (B) "CLASS C FIREWORKS" MEANS TOY SMOKE DEVICES, TOY CAPS
3 CONTAINING NOT MORE THAN .25 GRAINS OF EXPLOSIVE MIXTURE, TOY
4 PROPELLANT DEVICES, CIGARETTE LOADS, TRICK MATCHES, TRICK NOISE
5 MAKERS, SMOKE CANDLES, SMOKE POTS, SMOKE GRENADES, SMOKE SIGNALS,
6 HAND SIGNAL DEVICES, VERY SIGNAL CARTRIDGES, SPARKLERS, EXPLOSIVE
7 AUTO ALARMS, AND OTHER SIMILAR DEVICES.

8 (C) "FIREWORKS" MEANS A DEVICE MADE FROM EXPLOSIVE OR
9 FLAMMABLE COMPOSITIONS USED PRIMARILY FOR THE PURPOSE OF PRODUCING
10 A VISIBLE DISPLAY OR AUDIBLE EFFECT, OR BOTH, BY COMBUSTION,
11 DEFLAGRATION, OR DETONATION.

12 (2) EXCEPT FOR THE ITEMS LISTED IN SUBSECTION (3) AND AS
13 PROVIDED IN SECTIONS 243G, 243H, AND 243I, A PERSON, FIRM,
14 PARTNERSHIP, OR CORPORATION SHALL NOT OFFER FOR SALE, EXPOSE FOR
15 SALE, SELL AT RETAIL, KEEP WITH INTENT TO SELL AT RETAIL, POSSESS,
16 GIVE, FURNISH, TRANSPORT, USE, EXPLODE, OR CAUSE TO EXPLODE ANY OF
17 THE FOLLOWING:

18 (A) A BLANK CARTRIDGE, BLANK CARTRIDGE PISTOL, TOY CANNON, TOY
19 CANE, OR TOY GUN IN WHICH EXPLOSIVES ARE USED.

20 (B) AN UNMANNED BALLOON THAT REQUIRES FIRE UNDERNEATH TO
21 PROPEL IT AND IS NOT MOORED TO THE GROUND WHILE ALOFT.

22 (C) FIRECRACKERS, TORPEDOES, SKYROCKETS, ROMAN CANDLES, BOTTLE
23 ROCKETS, WHISTLING CHASERS, ROCKETS ON STICKS, OR OTHER FIREWORKS
24 OF SIMILAR CONSTRUCTION.

25 (D) FIREWORKS CONTAINING AN EXPLOSIVE OR INFLAMMABLE COMPOUND
26 OR A TABLET OR OTHER DEVICE COMMONLY USED AND SOLD AS FIREWORKS
27 CONTAINING NITRATES, FULMINATES, CHLORATES, OXALATES, SULPHIDES OF

1 LEAD, BARIUM, ANTIMONY, ARSENIC, MERCURY, NITROGLYCERINE,
2 PHOSPHORUS, OR A COMPOUND CONTAINING THESE OR OTHER MODERN
3 EXPLOSIVES.

4 (3) SUBSECTION (2) DOES NOT APPLY TO ANY OF THE FOLLOWING:

5 (A) FLAT PAPER CAPS CONTAINING NOT MORE THAN .25 OF A GRAIN OF
6 EXPLOSIVE CONTENT PER CAP, IN PACKAGES LABELED TO INDICATE THE
7 MAXIMUM EXPLOSIVE CONTENT PER CAP.

8 (B) TOY PISTOLS, TOY CANNONS, TOY CANES, TOY TRICK NOISE
9 MAKERS, AND TOY GUNS OF A TYPE APPROVED BY THE DIRECTOR OF THE
10 DEPARTMENT OF STATE POLICE IN WHICH PAPER CAPS AS DESCRIBED IN
11 SUBDIVISION (A) ARE USED AND THAT ARE SO CONSTRUCTED THAT THE HAND
12 CANNOT COME IN CONTACT WITH THE CAP WHEN IN PLACE FOR THE EXPLOSION
13 AND THAT ARE NOT DESIGNED TO BREAK APART OR BE SEPARATED SO AS TO
14 FORM A MISSILE BY THE EXPLOSION.

15 (C) SPARKLERS CONTAINING NOT MORE THAN .0125 POUNDS OF BURNING
16 PORTION PER SPARKLER.

17 (D) FLITTER SPARKLERS IN PAPER TUBES NOT EXCEEDING 1/8 INCH IN
18 DIAMETER, CONE FOUNTAINS, AND CYLINDER FOUNTAINS.

19 (E) TOY SNAKES NOT CONTAINING MERCURY, IF PACKED IN CARDBOARD
20 BOXES WITH NOT MORE THAN 12 PIECES PER BOX FOR RETAIL SALE AND IF
21 THE MANUFACTURER'S NAME AND THE QUANTITY CONTAINED IN EACH BOX ARE
22 PRINTED ON THE BOX; AND TOY SMOKE DEVICES.

23 (F) POSSESSION, TRANSPORTATION, SALE, OR USE OF SIGNAL FLARES
24 OF A TYPE APPROVED BY THE DIRECTOR OF THE DEPARTMENT OF STATE
25 POLICE, BLANK CARTRIDGES OR BLANK CARTRIDGE PISTOLS SPECIFICALLY
26 FOR A SHOW OR THEATER, FOR THE TRAINING OR EXHIBITING OF DOGS, FOR
27 SIGNAL PURPOSES IN ATHLETIC SPORTS, OR FOR USE BY MILITARY

1 ORGANIZATIONS, AND ALL ITEMS DESCRIBED IN SUBSECTION (2) USED BY
2 RAILROADS FOR EMERGENCY SIGNAL PURPOSES.

3 (G) THE SALE OF FIREWORKS, PROVIDED THEY ARE TO BE SHIPPED
4 DIRECTLY OUT OF STATE UNDER REGULATIONS OF THE UNITED STATES
5 DEPARTMENT OF TRANSPORTATION COVERING THE TRANSPORTATION OF
6 EXPLOSIVES AND OTHER DANGEROUS ARTICLES BY MOTOR, RAIL, AND WATER.

7 SEC. 243G. (1) THE LEGISLATIVE BODY OF A CITY, VILLAGE, OR
8 TOWNSHIP, UPON APPLICATION IN WRITING, ON FORMS PROVIDED BY THE
9 BUREAU OF FIRE SERVICES CREATED IN SECTION 1B OF THE FIRE
10 PREVENTION CODE, 1941 PA 207, MCL 29.1B, MAY GRANT A PERMIT FOR THE
11 USE OF FIREWORKS OTHERWISE PROHIBITED BY SECTION 243F, WITHIN THE
12 CITY, VILLAGE, OR TOWNSHIP, MANUFACTURED FOR OUTDOOR PEST CONTROL
13 OR AGRICULTURAL PURPOSES, OR FOR PUBLIC DISPLAY BY MUNICIPALITIES,
14 FAIR ASSOCIATIONS, AMUSEMENT PARKS, OR OTHER ORGANIZATIONS OR
15 GROUPS OF INDIVIDUALS APPROVED BY THE CITY, VILLAGE, OR TOWNSHIP
16 AUTHORITY, IF THE APPLICABLE PROVISIONS OF THIS ACT ARE COMPLIED
17 WITH. THE PERMITS MUST BE ON FORMS PROVIDED BY THE BUREAU OF FIRE
18 SERVICES. AFTER A PERMIT HAS BEEN GRANTED, SALES, POSSESSION, OR
19 TRANSPORTATION OF FIREWORKS FOR THE PURPOSES DESCRIBED IN THE
20 PERMIT ONLY MAY BE MADE. A PERMIT GRANTED UNDER THIS SUBSECTION IS
21 NOT TRANSFERABLE AND SHALL NOT BE ISSUED TO AN INDIVIDUAL LESS THAN
22 18 YEARS OF AGE.

23 (2) THE LEGISLATIVE BODY OF A CITY, VILLAGE, OR TOWNSHIP, UPON
24 APPLICATION IN WRITING, MAY GRANT A PERMIT, ON FORMS PROVIDED BY
25 THE BUREAU OF FIRE SERVICES, TO A RESIDENT WHOLESALE DEALER OR
26 JOBBER TO HAVE IN HIS OR HER POSSESSION WITHIN THE CITY, VILLAGE,
27 OR TOWNSHIP, FIREWORKS OTHERWISE PROHIBITED BY SECTION 243F, FOR

1 SALE ONLY TO HOLDERS OF PERMITS AS PROVIDED IN THIS SECTION. A
2 PERMIT GRANTED UNDER THIS SUBSECTION IS NOT TRANSFERABLE, NOR SHALL
3 A PERMIT BE ISSUED TO AN INDIVIDUAL LESS THAN 18 YEARS OF AGE.

4 (3) BEFORE A PERMIT FOR A PYROTECHNIC DISPLAY IS ISSUED, THE
5 PERSON APPLYING FOR THE PERMIT SHALL FURNISH PROOF OF FINANCIAL
6 RESPONSIBILITY BY A BOND OR INSURANCE IN AN AMOUNT, CHARACTER, AND
7 FORM CONSIDERED NECESSARY BY THE LOCAL GOVERNING AUTHORITY TO
8 SATISFY CLAIMS FOR DAMAGES TO PROPERTY OR PERSONAL INJURIES ARISING
9 OUT OF AN ACT OR OMISSION ON THE PART OF THE PERSON OR AN AGENT OR
10 EMPLOYEE OF THE PERSON, AND TO PROTECT THE PUBLIC.

11 (4) A PERMIT SHALL NOT BE ISSUED UNDER THIS ACT TO A
12 NONRESIDENT PERSON TO CONDUCT A PYROTECHNIC DISPLAY IN THIS STATE
13 UNTIL THE PERSON HAS APPOINTED IN WRITING A RESIDENT MEMBER OF THE
14 BAR OF THIS STATE OR A RESIDENT AGENT TO BE THE LEGAL
15 REPRESENTATIVE UPON WHOM ALL PROCESS IN AN ACTION OR PROCEEDING
16 AGAINST THE PERSON MAY BE SERVED.

17 (5) THE LOCAL GOVERNING AUTHORITY SHALL RULE ON THE COMPETENCY
18 AND QUALIFICATIONS OF OPERATORS OF PYROTECHNIC DISPLAYS, AS THE
19 OPERATOR HAS FURNISHED IN HIS OR HER APPLICATION FORM, AND ON THE
20 TIME, PLACE, AND SAFETY ASPECTS OF THE DISPLAYS BEFORE GRANTING A
21 PERMIT UNDER THIS SECTION.

22 SEC. 243H. TRANSPORTATION OF FIREWORKS INTRASTATE SHALL BE
23 MADE ONLY WITH THE PERMITS PROVIDED FOR IN THIS ACT AND AS FOLLOWS:

24 (A) IN ACCORDANCE WITH UNITED STATES DEPARTMENT OF
25 TRANSPORTATION REGULATIONS FOR TRANSPORTATION OF EXPLOSIVES AND
26 OTHER DANGEROUS ARTICLES BY MOTOR, RAIL, AND WATER, INCLUDING
27 SPECIFICATIONS FOR SHIPPING CONTAINERS.

(B) IN NONPASSENGER CARRYING VEHICLES, IN CHARGE OF A COMPETENT DRIVER NOT LESS THAN 18 YEARS OF AGE, THAT ARE EQUIPPED WITH A 15-POUND CARBON DIOXIDE OR A 10-POUND DRY CHEMICAL FIRE EXTINGUISHER, AND IN OR NEAR WHICH SMOKING IS PROHIBITED WHILE LOADING, UNLOADING, OR TRANSPORTING FIREWORKS.

SEC. 243I. (1) FIREWORKS KEPT AT THE SITE OF A WHOLESALER, DEALER, OR JOBBER, EXCEPT FOR A RETAILER WHO HAS GOODS ON HAND FOR SALE TO THE PUBLIC IN A SUPERVISED DISPLAY AREA, MUST BE STORED IN A 1-STORY, NONCOMBUSTIBLE BUILDING WITHOUT A BASEMENT, WHICH BUILDING IS WEATHER RESISTANT, WELL VENTILATED, AND EQUIPPED WITH A STRONG DOOR KEPT SECURELY LOCKED EXCEPT WHEN OPEN FOR BUSINESS.

(2) THE LOCATION OF A STORAGE BUILDING UNDER SUBSECTION (1) MUST BE APPROVED BY THE LOCAL GOVERNING AUTHORITY HAVING JURISDICTION AND BE LOCATED NOT LESS THAN THE FOLLOWING DISTANCES FROM INHABITED BUILDINGS, PASSENGER RAILROADS, AND PUBLIC HIGHWAYS ACCORDING TO THE NUMBER OF POUNDS OF FIREWORKS STORED, ROUNDED TO THE NEAREST POUND:

| NET WEIGHT OF FIREWORKS POUNDS | DISTANCE FROM PASSENGER RAILWAYS AND PUBLIC HIGHWAYS | | DISTANCE FROM INHABITED BUILDINGS | |
|--------------------------------------|--|------------------------------|--------------------------------------|------------------------------|
| | CLASS C FIREWORKS FEET | CLASS B FIREWORKS FEET | CLASS C FIREWORKS FEET | CLASS B FIREWORKS FEET |
| 100 OR LESS | 25 | 200 | 50 | 200 |
| 101 TO 200 | 30 | 200 | 60 | 200 |
| 201 TO 400 | 35 | 200 | 70 | 200 |

| | | | | | |
|----|--------------------|-----|-------|-----|-------|
| 1 | 401 TO 600 | 40 | 200 | 80 | 208 |
| 2 | 601 TO 800 | 45 | 200 | 90 | 252 |
| 3 | 801 TO 1,000 | 50 | 200 | 100 | 292 |
| 4 | 1,001 TO 2,000 | 58 | 230 | 115 | 459 |
| 5 | 2,001 TO 3,000 | 62 | 296 | 124 | 592 |
| 6 | 3,001 TO 4,000 | 65 | 352 | 130 | 704 |
| 7 | 4,001 TO 5,000 | 68 | 400 | 135 | 800 |
| 8 | 5,001 TO 6,000 | 70 | 441 | 139 | 882 |
| 9 | 6,001 TO 8,000 | 73 | 509 | 140 | 1,018 |
| 10 | 8,001 TO 10,000 | 75 | 565 | 150 | 1,129 |
| 11 | 10,001 TO 15,000 | 80 | 668 | 159 | 1,335 |
| 12 | 15,001 TO 20,000 | 83 | 745 | 165 | 1,490 |
| 13 | 20,001 TO 30,000 | 87 | 863 | 174 | 1,725 |
| 14 | 30,001 TO 40,000 | 90 | 953 | 180 | 1,906 |
| 15 | 40,001 TO 50,000 | 93 | 1,030 | 185 | 2,060 |
| 16 | 50,001 TO 60,000 | 95 | 1,095 | 189 | 2,190 |
| 17 | 60,001 TO 80,000 | 98 | 1,205 | 195 | 2,410 |
| 18 | 80,001 TO 100,000 | 100 | 1,300 | 200 | 2,600 |
| 19 | 100,001 TO 150,000 | 105 | 1,488 | 209 | 2,975 |
| 20 | 150,001 TO 200,000 | 108 | 1,638 | 215 | 3,275 |
| 21 | 200,001 OR MORE | 110 | 1,765 | 220 | 3,530 |

22 (3) A PERSON SHALL NOT CAUSE OR ALLOW SMOKING, MATCHES, OPEN
23 FLAMES, SPARK-PRODUCING DEVICES, OR FIREARMS INSIDE OF OR WITHIN 50
24 FEET OF A BUILDING USED FOR THE STORAGE OF FIREWORKS. A PERSON
25 SHALL NOT STORE COMBUSTIBLE MATERIALS WITHIN 50 FEET OF A BUILDING
26 USED FOR THE STORAGE OF FIREWORKS.

27 (4) THE INTERIOR OF A BUILDING USED FOR THE STORAGE OF

1 FIREWORKS SHALL BE KEPT CLEAN AND FREE FROM DEBRIS AND EMPTY
2 CONTAINERS. A PERSON SHALL NOT USE A BUILDING USED FOR THE STORAGE
3 OF FIREWORKS FOR THE STORAGE OF ANY METAL TOOLS OR ANY COMMODITY
4 OTHER THAN FIREWORKS.

5 (5) A PERSON SHALL NOT PROVIDE A BUILDING USED FOR THE STORAGE
6 OF FIREWORKS WITH HEAT OR LIGHTS, EXCEPT THAT IF LIGHTS ARE
7 NECESSARY, AN ELECTRIC SAFETY FLASHLIGHT OR SAFETY LANTERN MUST BE
8 USED.

9 (6) A BUILDING USED FOR THE STORAGE OF FIREWORKS MUST BEAR
10 LETTERING ON EACH SIDE AND TOP IN LETTERS NOT LESS THAN 4 INCHES
11 HIGH, THE WORDS "EXPLOSIVES—KEEP FIRE AWAY".

12 (7) A BUILDING USED FOR THE STORAGE OF FIREWORKS MUST BE UNDER
13 THE SUPERVISION OF A COMPETENT PERSON WHO IS NOT LESS THAN 18 YEARS
14 OF AGE.

15 (8) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (2), SALUTES
16 THAT DO NOT QUALIFY AS CLASS C FIREWORKS ARE CONSIDERED TO BE
17 HAZARDOUS MATERIAL AND MUST BE STORED IN ACCORDANCE WITH RULES FOR
18 THE STORAGE AND HANDLING OF HAZARDOUS MATERIAL PROMULGATED UNDER
19 SECTION 3C OF THE FIRE PREVENTION CODE, 1941 PA 207, MCL 29.3C.

20 SEC. 243J. A PERSON THAT VIOLATES A PROVISION OF SECTIONS 243F
21 TO 243I OR THAT VIOLATES THE TERMS OF A PERMIT ISSUED UNDER THOSE
22 SECTIONS IS GUILTY OF A MISDEMEANOR.

23 Enacting section 1. The Michigan fireworks safety act, 2011 PA
24 256, MCL 28.451 to 28.471, is repealed.

25 Enacting section 2. This amendatory act takes effect 90 days
26 after the date it is enacted into law.