

Berrien Fire Chief's Association

Meeting called to order by Chief Davidson at 0833 hours on 5-16-12.

ATTENDANCE: Unavailable

TREASURER'S REPORT – Lamb reported no change with a total in checking of 1,173.34. Motion, Second with all in favor.

MINUTES – Minutes from the March meeting were approved. Motion & Second with all in favor.

COMMUNICATIONS / BILLS – None

COMMITTEE REPORTS

911 – Dave discussed simulcast grant. The search for a clear channel has led us to the Forestry spectrum. The coordinator has identified at least one channel and forwarded to the FCC for approval. Chief Stiles asked what the plan was relating to Eau Claire Tower. Dave stated that there is no plan to replace it at this time as the transmitter will be moved to Bertrand Crossing. Sumnerville and Berrien Towers will remain. Dave discussed his preparations for the PGA event. He also discussed plans to update the current millage to cover expected costs. Looking for an increase from .25 to .45 mill. Basically \$10 on 100 K home.

DNR –.None

Funeral Protocol – Chief Spiegel talked about North Berrien's recent losses of past members. The Bibles were brought up and Chief Stover would look into picking up a few more through a split with the Firefighters Assoc, not to exceed \$300. Motion, second, with all in favor. Also an idea to pick up Station Bunting was discussed. North Berrien will also be providing an American Flag to the kit.

EMERGENCY MANAGEMENT –

LEPC –.Civilian Disaster Preparedness was the focus.

SHERIFF- The Sheriff discussed preparations for the upcoming SPGA event in North County. Plans are in place in case protesters expected show up for the event. There is some intel that a march is being planned to protest the Emergency Manager Act of possibly 300-500 people. We won't know the extent until the event but we want to be ready. Whirlpool has been very financially supportive covering a portion of the cost of overtime for the event. Corey Burks is also back to work. He has been recuperating from an injury for the last few months. Finally the Sheriff announced that he would be running unopposed in the upcoming election and he looks forward to working with the Chiefs for years to come.

The Sheriff brought along Berrien County Prosecutor Art Cotter to discuss the New Fireworks Law PA 256 & 257 Signed into Law on January 1 of this year. He went into depth reviewing the ins and outs to the legislation. Class 1.3 Consumer fireworks are now able to be shot without a license in Michigan however 1.4 Commercial Fireworks are still only able to be used by those licensed in the State. Commercial Sales of fireworks is regulated by the State and vendors must be licensed. Display is governed by

NFPA 1124. Discussion relating to where they could be shot was also discussed at length. Concerns about shooting from one property and landing on another were questioned. They cannot be shot from public property, churches or private property without permission but can land anywhere as long as not creating a hazard to a dwelling. Local jurisdictions are not allowed to pass or enforce more restrictive legislation that would limit fireworks sale and or use on the day of, day before, and day after a national holiday but they could ban them any other time. Noise ordinances apparently are not applicable either. The Sheriff and Bomb Squad Leader Fred Laesch let everyone know that they could call the Bomb Squad to recover any stockpiles that exceeded legal quantities or with any other related questions that they might have. Several Police Chiefs were also in attendance for the presentation. Concerns about the ability to enforce the act were effectively were also expressed. Noise ordinances violations were also ruled out as a possible remedy. You can shoot the things off 24 hours a day during the day before, of, and day after a national holiday. It would take some sort of local ordinance to ban their use any other time. Many questions remain. A copy of the law was attached to the minutes.

HAZ-MAT- None

BCFFA -. Bed Bugs prevention was discussed at the recent meeting.

RED CROSS-None

BCYF -. None

TRAINING –Chief Stover discussed the recent FF1&2 Practical Exercise. Over 60 candidates took the exam with only 5 not being able to meet the requirements. The written test results are still out. Graduation is scheduled for June 10th at the Fairgrounds. The last few years have been held at BSOFD but due to overwhelming attendance is being moved back to the Youth Memorial Building. There will be a flyer to follow announcing the event. Departmental leaders are encouraged to attend.

MABAS- The State is asking each division to appoint a Plan Coordinator and a Communication Reprehensive. Dave will handle the later but Chief Lamb still needs someone willing to serve as a Plan Coordinator. Interested parties should contact Chief Lamb.

OLD BUSINESS -.The Social Media Policy was presented. A proposed copy was issues and will be attached to the minutes. Watervliet also has one available for review. It is important to have a joint policy to prevent issues on Mutual Aid fires.

NEW BUSINESS- Chief Spiegel announced his departure from North Berrien Fire. He plans to pursue a position teaching youth sailing. He appreciated working with the Chiefs and expressed his pride with where the group is going. He would like to stay involve at some level in the future. He reminded the group that his position on the Communication Committee will need to be filled.

Chief Jones announced that Watervliet’s new 70 foot Platform Tower is in service.
Jerry Sirk discussed the M63 closure due to Bridge work following the PGA Weekend.

Adjourned 1015 hrs

Next Meeting June 20th at 1830 hours at Lincoln Twp Fire.

RS Larry Lamb



Senate Fiscal Agency
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 BILL ANALYSIS

Telephone: (517) 373-5383
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House Bill 4293 (as enacted)
Senate Bill 194 (as enacted)
Sponsor: Representative Harold L. Haugh (H.B. 4293)
Senator Rick Jones (S.B. 194)
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

PUBLIC ACT 256 of 2011
PUBLIC ACT 257 of 2011

Date Completed: 1-12-12

CONTENT

House Bill 4293 repealed Chapter 34 (Fireworks) of the Michigan Penal Code, and created the "Michigan Fireworks Safety Act" to do the following:

- Prohibit a person from selling consumer fireworks without obtaining an annual consumer fireworks certificate from the Department of Licensing and Regulatory Affairs (LARA).
- Prescribe certificate application fees.
- Impose a fireworks safety fee on retail transactions for the sale of consumer fireworks and low-impact fireworks (**Table 1**).
- Create the "Fireworks Safety Fund" and require certificate application fees and fireworks safety fees to be deposited in it.
- Allow up to \$1.0 million from the Fund to be used each fiscal year for grants to local units of government to defray inspection costs associated with enforcing the Act.
- Prescribe requirements for the sale of consumer fireworks from a retail location.
- Prohibit a person from selling low-impact fireworks without registering online, and require LARA to create an online registry.
- Prohibit a person from using consumer fireworks or low-impact fireworks while under the influence of alcohol or drugs.

- Prohibit the use of consumer fireworks on another person's property without permission.
- Prohibit the sale of consumer fireworks to a minor.
- Prescribe civil and criminal penalties for violations of the Act (**Tables 2 and 3**).
- Require LARA or a law enforcement agency to investigate alleged violations, and provide for the seizure of fireworks.
- Allow a city, village, or township to grant a permit for the use or display of fireworks, and to charge and retain a permit fee.
- Require the State Fire Marshal to report to the Legislature by October 1, 2013.

Senate Bill 194 amended the Code of Criminal Procedure to include in the sentencing guidelines certain violations of the Michigan Fireworks Safety Act (**Table 4**).

Senate Bill 194 was tie-barred to House Bill 4293 and took effect on December 14, 2011.

House Bill 4293 took effect on January 1, 2012. The bill is described in detail below.

Fireworks Definitions

The Act defines "firework" or "fireworks" as any composition or device, except for a starting pistol, flare gun, or flare, designed

to produce a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

"Consumer fireworks" means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling requirements promulgated by the U.S. Consumer Product Safety Commission, and that are listed in a specified American Pyrotechnic Association (APA) standard. Consumer fireworks do not include low-impact fireworks.

"Low-impact fireworks" means ground and handheld sparkling devices as that phrase is defined under a specified APA standard.

"Articles pyrotechnic" means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet weight limits for consumer fireworks but are not labeled as such, and that are classified under Federal regulations specified in the Act.

"Display fireworks" means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in Federal regulations and an APA standard.

"Special effects" means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen in the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

Consumer Fireworks Certificate

The Act prohibits a person from selling consumer fireworks unless the person annually obtains a consumer fireworks certificate from the Department of Licensing and Regulatory Affairs. If a person knows, or should know, that he or she is required to comply with this requirement and fails or neglects to do so, the person will be guilty of

a misdemeanor punishable by imprisonment for up to two years or a maximum fine of \$5,000 for each day the person is in violation, or both.

An application for a consumer fireworks certificate must be submitted by April 1 of the year in which the consumer fireworks are to be sold. The application must list the name and address of each retail location from which consumer fireworks are to be sold.

Until January 1, 2014, the application must be accompanied by a fee of \$1,000 for a certificate for each retail location that is a permanent building or structure, or \$600 for each retail location that is not a permanent building or structure. (As described below, the Act states a legislative intent that the fee be based on the costs of inspecting retail locations, beginning January 1, 2014.) Certificate fees must be deposited in the Fireworks Safety Fund.

The application also must be accompanied by a copy of the applicant's current sales tax license issued by the Department of Treasury for each retail location where the applicant will sell consumer fireworks.

A certificate will be valid from the date of issue until April 30 of the year after it is issued. A person may renew a certificate for a retail location by applying in the same manner as described above. Unless LARA determines that the applicant properly remitted all of the fireworks safety fees required to be paid in the preceding year, the Department may not issue a renewal certificate.

The Act requires LARA to give the Department of Treasury the sales tax license information received from the applicant and any additional information necessary to allow that Department to confirm that each sales tax license submitted by the applicant is current and valid. Also, LARA must enter into an agreement with the Department of Treasury allowing that Department to provide the information to LARA. Until the Treasury Department has confirmed to LARA that each sales tax license submitted by the applicant is current and valid, LARA may not issue an original or renewal consumer fireworks certificate to an applicant.

Within 30 days after an application is submitted, LARA must issue or deny issuance of a certificate and, if issuance is denied, indicate to the applicant the reason. If LARA denies issuance, the applicant may cure any defect of the application within 45 days without paying an additional fee. The Department may not unreasonably delay or deny an application.

A certificate may be transferred upon LARA's approval and payment of a \$25 transfer fee. The Department may not approve a transfer unless the transferee satisfies eligibility criteria for an original certificate.

The Department may not issue a certificate to a person who knowingly fails to collect or remit a fireworks safety fee, or to an individual who has been convicted of a felony involving theft, fraud, or arson.

A certificate holder must display the certificate prominently in the appropriate retail location. A person who violates this requirement will be responsible for a civil fine of \$100. Each day that the certificate is not displayed will be a separate violation.

Sale of Consumer Fireworks

Consumer fireworks may be sold from a retail location only if all of the following applicable conditions are met:

- The retail location satisfies the applicable requirements of National Fire Prevention Association (NFPA) codes not in conflict with the Act.
- Beginning January 1, 2013, a permanent building or structure is equipped with a fire suppression system in compliance with NFPA 1124.
- The retailer at that location is licensed under the General Sales Tax Act.
- The retailer has a valid Federal taxpayer ID number issued by the Internal Revenue Service (unless the retailer is a sole proprietorship).

("NFPA 1124" is the NFPA Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Sales.

The Act defines "retailer" as a person who sells consumer fireworks or low-impact fireworks for resale to an individual for

ultimate use. "Retail location" means a facility listed under a section of NFPA 1124.)

A person who knows or should know that he or she is required to comply with these requirements, and fails or neglects to do, will be responsible for a civil fine of \$2,500 for each violation. Each day of noncompliance will constitute a separate violation.

During periods when consumer fireworks are sold, each retail location selling them must be added as an additional insured, or public liability and product liability insurance coverage must be obtained and maintained, in an amount not less than \$10.0 million per occurrence. A person who knows or should know that he or she is subject to this requirement and fails or neglects to comply, will be liable for a maximum civil fine of \$5,000.

Fireworks Safety Fee

Retail transactions made in Michigan for consumer fireworks and low-impact fireworks are subject to a user fee, known as the fireworks safety fee. A person who acquires consumer or low-impact fireworks in a retail transaction is liable for the fee and, except as otherwise provided, must pay it to the retailer as a separate added amount to the consideration in the transaction. The retailer must collect the fee as an agent for the State. The fee must be deposited in the Fireworks Safety Fund.

Except as otherwise provided, the fee is to be determined by the gross retail income from consumer and low-impact fireworks received by a retail merchant in a retail unitary transaction of fireworks, and must be imposed before any taxes are applied, as shown in Table 1.

**Table 1
Fireworks Safety Fee**

Gross Retail Income from the Retail Unitary Transaction	Fee
Less than \$0.08	\$0
\$0.08-\$0.23	\$0.01
\$0.24-\$0.39	\$0.02
\$0.40-\$0.55	\$0.03
\$0.56-\$0.71	\$0.04
\$0.72-\$0.87	\$0.05
\$0.88-\$1.03	\$0.06

On a transaction in which the gross retail income is \$1.04 or more, the fee is 6% of that income as determined before any taxes are applied.

A retailer whose retail location is a permanent building or structure may retain 1% of the fireworks safety fees that it collects as a collection allowance.

A retailer must remit the fee to LARA, and hold the fees collected in trust for the State until remitted. The retailer is personally liable for the payment of the fee money.

A person who knows or should know that he or she is required to collect and remit a fireworks safety fee, and fails to do so, will be guilty of a misdemeanor punishable by a fine of up to \$10,000. In addition, the person will be ineligible to obtain a fireworks certificate for one year after conviction.

Fireworks Safety Fund

The Act creates the Fund within the Department of Treasury. The State Treasurer may receive money or other assets from any source for deposit into the Fund. The State Treasurer must direct the Fund's investment, and credit to it any interest and earnings. Money in the Fund at the close of the fiscal year is to remain in the Fund and not lapse to the General Fund.

The Department of Licensing and Regulatory Affairs must spend money from the Fund to carry out the purposes of the Act, the Fire Prevention Code, and the Firefighters Training Council. Of the first \$1.0 million collected in the Fund each fiscal year, LARA may spend up to that amount in discretionary grants to local units of government (cities, villages, and townships) to defray inspection costs associated with enforcing the Act.

Restrictions on Possession & Use

A person may not ignite, discharge, or use consumer fireworks on public property, school property, church property, or another person's property without that organization's or person's express permission to do so. A violator will be responsible for a State civil infraction and may be ordered to pay a civil fine of up to \$500.

Consumer fireworks may not be sold to a minor (an individual under 18 years old). A

person who violates this prohibition will be responsible for a State civil infraction and may be ordered to pay a civil fine of up to \$500.

An individual may not use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor and/or a controlled substance.

A person who violates the smoking prohibition under a section of NFPA 1124 will be guilty of a misdemeanor punishable by imprisonment for up to one year and/or a maximum fine of \$1,000.

Penalties for Other Violations

Unless otherwise provided in the Act, a person who knowingly, intentionally, or recklessly violates the Act will be guilty of a crime as follows:

- A misdemeanor punishable by imprisonment for up to 30 days and/or a maximum fine of \$1,000, except as provided below.
- If the violation damages another person's property, a misdemeanor punishable by imprisonment for up to 90 days and/or a maximum fine of \$5,000.
- If the violation causes serious impairment of a body function of another person, a felony punishable by imprisonment for up to five years and/or a maximum fine of \$5,000.
- If the violation causes another person's death, a felony punishable by imprisonment for up to 15 years and/or a maximum fine of \$10,000.

In addition to any other penalty imposed under the Act, a person who is found guilty must reimburse the appropriate governmental agency for the costs of storing seized fireworks that the agency confiscates for a violation.

Fireworks Wholesaler

A wholesaler must maintain a resident agent who resides in Michigan and has a physical address in Michigan. A post office box is not a physical address for this purpose.

"Wholesaler" means a person who sells consumer fireworks or low-impact fireworks to a retailer or any other person for resale.

The term does not include a person who sells only display fireworks or special effects.

Website: Low-Impact Retail Registry

The Act requires LARA to establish and maintain an Internet website to protect Michigan residents who purchase, use, or transport fireworks. The website must list every person and entity that is issued a consumer fireworks certificate.

The website also must include a low-impact fireworks retail registry, subject to all of the following:

- It must be maintained and operated at no cost to a user.
- The cost of its maintenance and operation must be paid with money in the Fireworks Safety Fund.
- It must provide for instant registry without condition.

Beginning February 1, 2012, a person may not sell low-impact fireworks unless he or she registers at least 10 days before selling the fireworks in each calendar year.

Permitted Activity or Use

The Act does not prohibit a wholesaler, retailer, commercial manufacturer, or importer from selling, storing, using, transporting, or distributing consumer fireworks or low-impact fireworks. The Act also does not prohibit any of the following:

- The use of fireworks by railroads or other transportation agencies or law enforcement agencies for signal purposes or illumination.
- The use of agricultural or wildlife fireworks.
- The possession, sale, or disposal of fireworks incidental to the public display of fireworks by wholesalers or other people who have a permit to possess, store, and sell explosives from the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives.

The Act does not prohibit the sale or use of blank cartridges for any of the following:

- A show or play.
- Signal or ceremonial purposes in athletics or sports.
- Use by military organizations.

- Use by law enforcement agencies.

Also, the Act does not prohibit interstate wholesalers from selling, storing, using, transporting, or distributing fireworks.

(Agricultural and wildlife fireworks are fireworks devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the U.S. Department of the Interior or the Michigan Department of Natural Resources.)

Local Regulation

Except as otherwise provided, a local unit of government may not enact or enforce an ordinance, code, or regulation pertaining to or in any manner regulating the sale, display, storage, transportation, or distribution of fireworks regulated under the Act.

A local unit may enact an ordinance regulating the ignition, discharge, and use of consumer fireworks, but the ordinance may not regulate the use of consumer fireworks on the day before, the day of, or the day after a national holiday.

Local Permit

The legislative body of a local unit of government, upon application and payment of a fee set by the legislative body, if any, may grant a permit for the use of agricultural or wildlife fireworks, articles pyrotechnic, display fireworks, or special effects manufactured for outdoor pest control or agricultural purposes, or for public or private display within the city, village, or township by municipalities, fair associations, amusement parks, or other organizations or individuals approved by the city, village, or township authority, if the applicable provisions of the Act are complied with. After a permit has been granted, sales, possession, or transportation of fireworks may be made only for the purposes described in the permit. A permit is not transferable and may not be issued to a minor.

Before a permit for articles pyrotechnic or a display fireworks ignition is issued, the applicant must furnish proof of financial responsibility by a bond or insurance in an amount, character, and form considered necessary by the local governing authority.

to satisfy claims for property damage or personal injury arising out of an act or omission of the person or the person's agent or employee, and to protect the public.

A permit may not be issued to a nonresident person for ignition of articles pyrotechnic or display fireworks in the State until the person has appointed a resident member of the State Bar or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person may be served.

Before granting permits, the local governing authority must rule on the competency and qualifications of articles pyrotechnic and display fireworks operators as required under NFPA 1123 (the Code for Fireworks Display), and on the time, place, and safety aspects of the display of articles pyrotechnic or display fireworks.

Investigation; Seizure of Fireworks

A governmental or law enforcement agency that identifies a firework that is in violation of the Act must secure the firework and immediately notify LARA of the alleged violation. The law enforcement agency or LARA must investigate the alleged violation within a reasonable time.

If the law enforcement agency or LARA determines that there has been a violation (except the sale of low-impact fireworks by an unregistered person), the agency or LARA may seize the firework as evidence of the violation. The evidence must be stored pending disposition of any criminal or civil proceedings arising from a violation of the Act, at the person's expense if he or she is found guilty, responsible, or liable for the violation.

Fireworks seized for an alleged violation must be stored in compliance with the Act and rules promulgated under it. Following final disposition of a conviction for a violation, the seizing agency may dispose of or destroy fireworks retained as evidence in that prosecution. The Department of State Police and LARA may use the fireworks for training purposes.

The person from whom fireworks are seized must pay the actual costs of storage and disposal.

Rules

The Department of Licensing and Regulatory Affairs must promulgate rules to administer the Act, including rules for the following:

- Uniform applications and other forms for dissemination to and use by local units of government.
- Procedures for the collection of application fees and fireworks safety fees.
- Enforcement of regulatory duties.
- Enforcement of age limitations.

The rules must conform to specific codes developed by the NFPA, except for any code provision that conflicts with the Act.

The rules promulgated under Chapter 34 of the Michigan Penal Code pertaining to the display of articles pyrotechnic and display fireworks that were in effect on the Act's effective date, will remain in effect until rescinded or otherwise changed according to law.

Delegation

The Department may delegate authority and responsibility to carry out inspections and other duties under the Act.

Report to the Legislature

By October 1, 2013, the State Fire Marshal must give the Legislature a report that details the costs associated with the inspection of retail locations under the Act. The Act states, "It is the intent of the legislature that the information described in this subdivision be used to determine the consumer fireworks certification fee for each retail location...beginning January 1, 2014."

The report also must detail the types and numbers of violations of the Act.

**Table 2
Civil Penalties**

Violation	Fine
Failure to Display Certificate	\$100 per day
Noncompliance with Retail Sale Conditions	\$2,500 per day
Noncompliance with Insurance Requirement	\$5,000 maximum
Sale to a Minor	\$500 maximum
Use on Property without Permission	\$500 maximum

**Table 3
Criminal Penalties**

Violation	Maximum Fine	Maximum Term
Noncompliance with Certificate Requirement	\$5,000 per day	2 years
Failure to Collect & Remit Safety Fee	\$10,000	N/A
Violation of Smoking Prohibition	\$1,000	1 year
Other Violation (except as provided below)	\$1,000	30 days
Other Violation - Property Damage	\$5,000	90 days
Other Violation - Serious Impairment of Body Function	\$5,000	5 years
Other Violation - Death	\$10,000	1 year

**Table 4
Sentencing Guidelines**

Violation	Category	Class	Statutory Maximum
Consumer fireworks certificate violation	Public safety	G	Two years
Violation causing serious impairment of a body function	Public safety	E	Five years
Violation causing death	Public safety	C	15 years

MCL 28.451-28.471 (H.B. 4293)
777.11b (S.B. 194)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

House Bill 4293 will likely have a positive effect on State revenue. The bill will generate new revenue from an annual \$1,000 fireworks certificate fee imposed on permanent retail sales facilities. A \$600 annual fee will be placed on nonpermanent structures. The bill also establishes a fireworks safety fee of 6% of the retail price of fireworks sold in the State. These new fees will generate an unknown amount of revenue to be deposited in the Fireworks Safety Fund, which the bill creates.

In addition, the new civil and criminal penalties, and sentencing guidelines, will have an indeterminate fiscal impact on State

and local government. There are no data to indicate how many individuals will be convicted of or found responsible for violations. An offender convicted of the Class G offense will receive a sentencing guidelines minimum sentence range of 0-3 months to 7-23 months. An offender convicted of the Class E offense will receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months. An offender convicted of the Class C offense will receive a sentencing guidelines minimum sentence range of 0-11 months to 62-114 months. Local governments will incur the costs of incarceration in local facilities, which vary by county. The State will incur the cost of felony probation at an annual average cost of \$2,500, as well as the cost of incarceration in a State facility at an average annual cost of \$34,000.

Additional revenue from civil infraction fines and penal fines will benefit public libraries.

Fiscal Analyst: Steve Angelotti
Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

Act No. 256
Public Acts of 2011
Approved by the Governor
December 13, 2011
Filed with the Secretary of State
December 14, 2011
EFFECTIVE DATE: January 1, 2012

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011**

Introduced by Reps. Haugh, Liss, Dillon, Melton, Roy Schmidt, Hobbs, Durhal, Hammel, Franz, McCann, Stanley, Lane, Stapleton, Jackson, Nathan, Brown, Huuki, Foster, Shirkey, Lori, Pettalia, Tyler, Lipton, Geiss, Barnett, Rogers, Kandrevas, Wayne Schmidt, Stallworth, Howze, Rutledge, Santana, Womack, Walsh, Constan, Smiley, Townsend, McBroom, Irwin, Olumba and Oakes

ENROLLED HOUSE BILL No. 4293

AN ACT to revise, consolidate, and codify the laws relating to certain fireworks; to regulate the purchase, possession, sale, and use of certain fireworks; to establish a fireworks safety fund; to establish a fireworks safety fee; to provide for the transfer and expenditure of funds; to prescribe the powers and duties of certain state agencies; to provide for penalties and remedies; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "Michigan fireworks safety act".

Sec. 2. As used in this act:

(a) "Agricultural and wildlife fireworks" means fireworks devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States department of the interior or the department of natural resources of this state.

(b) "APA standard 87-1" means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American pyrotechnics association of Bethesda, Maryland.

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

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

(e) "Consumer fireworks" means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks.

(f) "Consumer fireworks certificate" means a certificate issued under section 4.

(g) "Department" means the department of licensing and regulatory affairs.

(h) "Display fireworks" means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.

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

(j) "Local unit of government" means a city, village, or township.

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

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

(m) "NFPA" means the national fire protection association headquartered at 1 Batterymarch Park, Quincy, Massachusetts.

(n) "NFPA 1" means the uniform fire code, 2006 edition, developed by NFPA.

(o) "NFPA 72" means the "National Fire Alarm Code", 2002 edition, developed by NFPA.

(p) "NFPA 101" means the "Life Safety Code", 2009 edition, developed by NFPA.

(q) "NFPA 1123" means the "Code for Fireworks Display", 2010 edition, developed by NFPA.

(r) "NFPA 1124" means the "Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles", 2006 edition, developed by NFPA.

(s) "NFPA 1126" means the "Standard for the Use of Pyrotechnics Before a Proximate Audience", 2011 edition, developed by NFPA.

(t) "Novelties" means that term as defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

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

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

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

(iv) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

(u) "Permanent building or structure" is a building or structure that is affixed to a foundation on a site that has fixed utility connections and that is intended to remain on the site for more than 180 consecutive calendar days.

(v) "Person" means an individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.

(w) "Retailer" means a person who sells consumer fireworks or low-impact fireworks for resale to an individual for ultimate use.

(x) "Retail location" means a facility listed under NFPA 1124, 7.1.2.

(y) "Special effects" means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

(z) "State fire marshal" means the state fire marshal appointed under section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b.

(aa) "Warehouse" means a permanent building or structure used primarily for the storage of consumer fireworks or low-impact fireworks.

(bb) "Wholesaler" means any person who sells consumer fireworks or low-impact fireworks to a retailer or any other person for resale. Wholesaler does not include a person who sells only display fireworks or special effects.

Sec. 3. This act does not apply to novelties. Nothing in this act allows a local unit of government to enact or enforce an ordinance, code, or regulation pertaining to, or in any manner regulating, the sale, storage, display for sale, transportation, use, or distribution of novelties.

Sec. 4. (1) A person shall not sell consumer fireworks unless the person annually obtains a consumer fireworks certificate from the department under this section. A person who knows, or should know, that he or she is required to comply with this subsection and who fails or neglects to do so is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$5,000.00 for each day the person is in violation of this subsection, or both.

(2) An application for a consumer fireworks certificate shall meet all of the following requirements:

(a) Before January 1, 2012, the application shall be submitted not less than 90 days before the applicant sells consumer fireworks.

(b) Beginning January 1, 2012, the application shall be submitted no later than April 1 of each year in which consumer fireworks are to be sold.

(c) The application shall list the name and address of each retail location from which consumer fireworks are to be sold.

(d) Until January 1, 2014, the application shall be accompanied by a fee of \$1,000.00 for a certificate for each retail location that is a permanent building or structure or \$600.00 for each retail location that is not a permanent building or structure. Until January 1, 2014, the fireworks certificate fee required to be paid for a retail location that is not a permanent building or structure shall not exceed 60% of the fireworks certificate fee for a retail location that is a permanent building or structure.

(e) The application shall be accompanied by a copy of the applicant's current sales tax license, including the applicant's account number, issued by the department of treasury for each retail location where consumer fireworks are to be sold by the applicant.

(3) A consumer fireworks certificate issued under this section is valid from the date of issue until April 30 of the year after it was issued. A person may renew a consumer fireworks certificate for a retail location by making application in the same manner as provided under subsection (2). However, the department shall not issue a renewal consumer fireworks certificate unless the department determines that the applicant properly remitted all of the fireworks safety fees required to be paid in the preceding year. The department shall provide to the department of treasury the sales tax license information received from the applicant and any additional information as may be necessary to allow the department of treasury to confirm that each sales tax license submitted by the applicant is current and valid. The department shall enter into an agreement with the department of treasury under section 28(1) of 1941 PA 122, MCL 205.28, that will allow the department of treasury to provide that information to the department. The department shall not issue an original or renewal consumer fireworks certificate to an applicant until the department of treasury has confirmed to the department that each sales tax license submitted by the applicant is current and valid.

(4) Not more than 30 days after an application is submitted to the department under this section, the department shall issue or deny issuance of a consumer fireworks certificate to the applicant and, if issuance is denied, shall indicate to the applicant the reason for denial.

(5) If the department denies issuance of a consumer fireworks certificate under this section, the applicant may cure any defect of the application within 45 days after the denial without paying an additional fee. The department shall not unreasonably delay or deny an application under this section.

(6) A consumer fireworks certificate is transferable upon approval by the department and the payment of a \$25.00 transfer fee. However, the department shall not approve the transfer of a consumer fireworks certificate unless the transferee satisfies eligibility requirements for an original consumer fireworks certificate under this act.

(7) The holder of a consumer fireworks certificate shall prominently display the original or copy of the certificate in the appropriate retail location. A person that violates this subsection is responsible for a civil fine of \$100.00. Each day that the consumer fireworks certificate is not displayed as provided under this subsection is a separate violation.

(8) The department shall not issue a consumer fireworks certificate to either of the following:

(a) A person that is ineligible under section 8(4).

(b) An individual who has been convicted of a felony involving theft, fraud, or arson.

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

(10) Fees collected under this section shall be deposited in the fireworks safety fund created under section 11.

Sec. 5. (1) Consumer fireworks shall only be sold from a retail location if all of the following applicable conditions are met:

(a) Except as provided in subdivision (b), a retail location satisfies the applicable requirements of NFPA 101 and NFPA 1124 not in conflict with this act.

(b) Beginning 1 year after the effective date of this act, a permanent building or structure shall be equipped with a fire suppression system in compliance with NFPA 1124.

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

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

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

(3) During periods when consumer fireworks are sold, each retail location selling consumer fireworks either shall be added as an additional insured, or public liability and product liability insurance coverage shall be obtained and maintained, in an amount not less than \$10,000,000.00 per occurrence. A person that knows, or should know, that he or she is required to comply with this subsection and who fails or neglects to do so is liable for a civil fine of not more than \$5,000.00.

Sec. 6. (1) The department shall establish and maintain, or cause to be created and maintained, an internet website that has as its purpose the protection of the residents of this state who purchase, use, or transport fireworks. The website shall include, at a minimum, both of the following:

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

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

(i) It shall be maintained and operated at no cost to a user.

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

(iii) It shall provide for instant registry without condition.

(2) Beginning February 1, 2012, a person shall not sell low-impact fireworks unless he or she registers with the low-impact fireworks retail registry not less than 10 days before selling the fireworks in each calendar year.

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

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

(2) A local unit of government may enact an ordinance regulating the ignition, discharge, and use of consumer fireworks. However, an ordinance enacted under this subsection shall not regulate the use of consumer fireworks on the day preceding, the day of, or the day after a national holiday.

Sec. 8. (1) A user fee, known as the fireworks safety fee, is imposed on retail transactions made in this state for consumer fireworks and low-impact fireworks as provided in section 9.

(2) A person that acquires consumer fireworks or low-impact fireworks in a retail transaction is liable for the fireworks safety fee on the transaction and, except as otherwise provided in this act, shall pay the fireworks safety fee to the retailer as a separate added amount to the consideration in the transaction. The retailer shall collect the fireworks safety fee as an agent for the state.

(3) The fireworks safety fee shall be deposited in the fireworks safety fund created under section 11.

(4) A person that knows or should know that he or she is required to comply with the requirements of subsection (2) but fails to collect or remit a fireworks safety fee as required under this section is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00. In addition, the person is ineligible to obtain a fireworks certificate for 1 year after conviction.

Sec. 9. (1) Except as provided in subsections (2) and (3), the fireworks safety fee is determined by the gross retail income from consumer fireworks and low-impact fireworks received by a retail merchant in a retail unitary transaction of consumer fireworks and low-impact fireworks and is imposed before any taxes are applied at the following rates:

FIREWORKS SAFETY FEE	GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION	
\$ 0		less than \$ 0.08
\$ 0.01	at least \$ 0.08	but less than \$ 0.24
\$ 0.02	at least \$ 0.24	but less than \$ 0.40
\$ 0.03	at least \$ 0.40	but less than \$ 0.56
\$ 0.04	at least \$ 0.56	but less than \$ 0.72
\$ 0.05	at least \$ 0.72	but less than \$ 0.88
\$ 0.06	at least \$ 0.88	but less than \$ 1.04

(2) On a retail unitary transaction in which the gross retail income received by the retail merchant is \$1.04 or more, the fireworks safety fee is 6% of that gross retail income as determined before any taxes are applied.

(3) If the fireworks safety fee calculated under subsection (1) results in a fraction of 1/2 cent or more, the amount of the fireworks safety fee shall be rounded to the next additional cent.

(4) The retailer whose retail location is a permanent building or structure may retain 1% of the fireworks safety fees that the retailer collected under this section as a collection allowance.

Sec. 10. A retailer shall remit the fireworks safety fee as described in section 9 to the department on forms and in the manner prescribed by the department, shall hold the fireworks safety fees collected in trust for the state until remitted to the state, and is personally liable for the payment of the fireworks safety fee money to this state.

Sec. 11. (1) The fireworks safety fund is created within the department of treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall expend money deposited in the fund to carry out the purposes of this act, the fire prevention code, 1941 PA 207, MCL 29.1 to 29.33, and the firefighters training council created under section 3 of the firefighters training council act, 1966 PA 291, MCL 29.363. Of the first \$1,000,000.00 collected in the fireworks safety fund in each fiscal year, the department may expend not more than \$1,000,000.00 in discretionary grants to local units of government to defray inspection costs associated with the enforcement of this act.

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

(2) Consumer fireworks shall not be sold to a minor. A person that violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00. This age requirement shall be verified by any of the following:

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

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

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

(d) A military identification card.

(e) A passport.

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

(3) An individual shall not use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance. As used in this subsection:

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

(b) "Controlled substance" means that term as defined in section 8b of the Michigan vehicle code, 1949 PA 300, MCL 257.8b.

(4) An individual who violates the smoking prohibition under NFPA 1124, 7.3.11.1 is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

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

Sec. 13. A wholesaler shall maintain a resident agent who resides in this state and who has a physical address in this state. A post office box is not a physical address for purposes of this section.

Sec. 14. (1) A governmental or law enforcement agency that identifies a firework that is in violation of this act shall secure the firework and immediately notify the department of the alleged violation. The department or law enforcement agency shall investigate the alleged violation for compliance with this act within a reasonable time.

(2) If the department or law enforcement agency determines that a violation of this act has occurred, except for a violation of section 6(2), the department or law enforcement agency may seize the firework as evidence of the violation. Evidence seized under this section shall be stored pending disposition of any criminal or civil proceedings arising from a violation of this act at the expense of the person, if the person is found guilty, responsible, or liable for the violation.

Sec. 15. (1) Fireworks seized for an alleged violation of this act shall be stored in compliance with this act and rules promulgated under this act.

(2) Following final disposition of a conviction for violating this act, the seizing agency in possession may dispose of or destroy any fireworks retained as evidence in that prosecution.

(3) The person from whom fireworks are seized under this act shall pay the actual costs of storage and disposal of the seized fireworks.

(4) The department of state police and the department may use fireworks described in subsection (2) for training purposes.

Sec. 16. (1) The legislative body of a city, village, or township, upon application in writing on forms provided by the department and payment of a fee set by the legislative body, if any, may grant a permit for the use of agricultural or wildlife fireworks, articles pyrotechnic, display fireworks, or special effects manufactured for outdoor pest control or agricultural purposes, or for public or private display within the city, village, or township by municipalities, fair associations, amusement parks, or other organizations or individuals approved by the city, village, or township authority, if the applicable provisions of this act are complied with. After a permit has been granted, sales, possession, or transportation of fireworks for the purposes described in the permit only may be made. A permit granted under this subsection is not transferable and shall not be issued to a minor.

(2) Before a permit for articles pyrotechnic or a display fireworks ignition is issued, the person, firm, or corporation applying for the permit shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the local governing authority to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the person, firm, or corporation or an agent or employee of the person, firm, or corporation, and to protect the public.

(3) A permit shall not be issued under this act to a nonresident person, firm, or corporation for ignition of articles pyrotechnic or display fireworks in this state until the person, firm, or corporation has appointed in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person, firm, or corporation may be served.

(4) The local governing authority shall rule on the competency and qualifications of articles pyrotechnic and display fireworks operators as required under NFPA 1123, as the operator has furnished in his or her application form, and on the time, place, and safety aspects of the display of articles pyrotechnic or display fireworks before granting permits.

(5) A local unit of government that charges a fee to issue a permit under this section shall retain the fee paid.

Sec. 17. This act does not prohibit any of the following:

(a) A wholesaler, retailer, commercial manufacturer, or importer from selling, storing, using, transporting, or distributing consumer fireworks or low-impact fireworks.

(b) The use of fireworks by railroads or other transportation agencies or law enforcement agencies for signal purposes or illumination.

(c) The use of agricultural or wildlife fireworks.

(d) The sale or use of blank cartridges for any of the following:

(i) A show or play.

(ii) Signal or ceremonial purposes in athletics or sports.

(iii) Use by military organizations.

(iv) Use by law enforcement agencies.

(e) The possession, sale, or disposal of fireworks incidental to the public display of fireworks by wholesalers or other persons who possess a permit to possess, store, and sell explosives from the bureau of alcohol, tobacco, firearms, and explosives of the United States department of justice.

(f) Interstate wholesalers from selling, storing, using, transporting, or distributing fireworks.

Sec. 18. (1) Unless otherwise provided in this act, if a person knowingly, intentionally, or recklessly violates this act, the person is guilty of a crime as follows:

(a) Except as otherwise provided in this section, a misdemeanor punishable by imprisonment for not more than 30 days or a fine of not more than \$1,000.00, or both.

(b) If the violation causes damage to the property of another person, a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$5,000.00, or both.

(c) If the violation causes serious impairment of a body function of another person, a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$5,000.00, or both. As used in this subdivision, "serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(d) If the violation causes the death of another person, a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(2) In addition to any other penalty imposed for the violation of this act, a person that is found guilty of a violation of this act shall be required to reimburse the appropriate governmental agency for the costs of storing seized fireworks that the governmental agency confiscated for a violation of this act. This reimbursement shall be in a form and at a time as required by the department and as otherwise required by law.

Sec. 19. The department may delegate authority and responsibility to carry out inspections and other duties under this act.

Sec. 20. (1) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to administer this act, including, but not limited to, all of the following:

(a) Create uniform applications and other forms for dissemination to and use by local units of government under this act.

(b) Procedures for the collection of application fees and fireworks safety fees.

(c) Enforcement of regulatory duties.

(d) The enforcement of age limitations.

(2) Rules promulgated under this section shall conform to the following codes developed by the national fire protection association, except for any code provision that conflicts with this act:

(a) NFPA 1123, code for fireworks display.

(b) NFPA 1124, code for manufacture, transportation, storage, and retail sales of fireworks and pyrotechnic articles.

(c) NFPA 1126, standard for the use of pyrotechnics.

(3) The rules promulgated under former chapter XXXIX of the Michigan penal code, 1931 PA 328, MCL 750.243a to 750.243e, pertaining to the display of articles pyrotechnic and display fireworks that are in effect on the effective date of this act shall remain in effect until rescinded or otherwise changed according to law, as provided for in section 31 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.231.

Sec. 21. No later than October 1, 2013, the state fire marshal shall provide a report to the legislature that details both of the following:

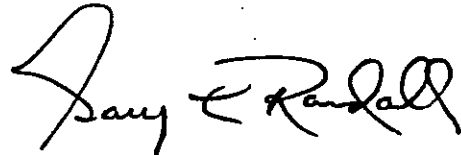
(a) The costs associated with the inspection of retail locations under this act. It is the intent of the legislature that the information described in this subdivision be used to determine the consumer fireworks certificate fee for each retail location under section 4 beginning January 1, 2014.

(b) The types and number of violations of this act.

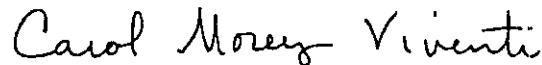
Enacting section 1. Chapter XXXIX of the Michigan penal code, 1931 PA 328, MCL 750.243a to 750.243e, is repealed.

Enacting section 2. This act takes effect January 1, 2012.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

.....
Governor

Act No. 257
Public Acts of 2011
Approved by the Governor
December 13, 2011
Filed with the Secretary of State
December 14, 2011
EFFECTIVE DATE: December 14, 2011

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011**

Introduced by Senators Jones, Booher and Proos

ENROLLED SENATE BILL No. 194

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 11b of chapter XVII (MCL 777.11b), as amended by 2011 PA 19.

The People of the State of Michigan enact:

CHAPTER XVII

Sec. 11b. This chapter applies to the following felonies enumerated in chapter 28 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
28.214(6)(b)	Pub trst	F	Unauthorized disclosure of information from LEIN — subsequent offense	4
28.293(1)	Pub ord	E	False information when applying for state ID	5

28.293(2)	Pub ord	D	False information when applying for state ID — second offense	7
28.293(3)	Pub ord	C	False information when applying for state ID — third or subsequent offense	15
28.295(1)(a)	Pub ord	D	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for 10 years or more	10
28.295(1)(b)	Pub ord	E	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by more than 6 months	5
28.295(2)	Pub ord	E	Selling counterfeited or forged state ID card or possessing counterfeited or forged state ID card with intent to deliver to another person or possessing 2 or more counterfeited or forged state ID cards	5
28.295(5)	Property	H	Using stolen state ID card to commit felony	Variable
28.295a(1)	Pub ord	H	False representation to obtain or misuse personal information	4
28.295a(2)	Pub ord	G	False representation to obtain or misuse personal information — second offense	7
28.295a(3)	Pub ord	C	False representation to obtain or misuse personal information — third or subsequent offense	15
28.308	Pub saf	E	False certification or statement in application for enhanced driver license or enhanced official state personal identification card	5
28.422(16)	Pub saf	F	Forgery on pistol license application	4
28.422a(5)	Pub saf	F	False statement on pistol sales record	4
28.425b(3)	Pub saf	F	False statement on concealed pistol permit application	4
28.425j(2)	Pub saf	F	Unlawful granting or presenting of pistol training certificate	4
28.425o(5)(c)	Pub saf	F	Carrying concealed pistol in prohibited place — third or subsequent offense	4
28.435(14)(c)	Pub saf	G	Firearm sale without trigger lock, gun case, or storage container — third or subsequent offense	2
28.454(1)	Pub saf	G	Consumer fireworks certificate violation	2
28.468(1)(c)	Pub saf	E	Michigan fireworks safety act violation causing serious impairment	5
28.468(1)(d)	Pub saf	C	Michigan fireworks safety act violation causing death	15
28.516(2)	Pub saf	F	False statement on concealed firearm certificate application	4
28.729(1)(a)	Pub ord	F	Failure to register as a sex offender, first offense	4
28.729(1)(b)	Pub ord	D	Failure to register as a sex offender, second offense	7
28.729(1)(c)	Pub ord	D	Failure to register as a sex offender, third or subsequent offense	10
28.729(2)	Pub ord	F	Failure to update sex offender registration information	2
28.734(2)(b)	Pub trst	G	Student safety zone violation involving work or loitering — subsequent offense	2
28.735(2)(b)	Pub trst	G	Student safety zone violation involving residency — subsequent offense	2
28.754(1)	Pub ord	F	False report of a child abduction	4

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4293 of the 96th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved.....

.....
Governor

CONSUMER FIREWORKS AND NOVELTIES ALLOWED IN MICHIGAN

PERMITTED CONSUMER FIREWORKS

SKY ROCKETS / BOTTLE ROCKETS
WARNING
FLAMMABLE ROCKET

FIRECRACKERS
WARNING
EXPLOSIVE

ROMAN CANDLES
WARNING
SHOOTS FLAMING BALLS

SINGLE TUBE DEVICE WITH REPORT
WARNING
SHOOTS FLAMING BALLS w/reports

AERIALS
WARNING
SHOOTS FLAMING BALLS W/REPORTS

RELOADABLE SHELL DEVICE
WARNING
SHOOTS FLAMING BALLS

MISSILE TYPE ROCKETS
WARNING
EXPLOSIVE

HELICOPTER / AERIAL SPINNERS
WARNING
EMITS SHOWERS OF SPARKS WITH REPORTS

PERMITTED LOW IMPACT FIREWORKS

GROUND BASED or HANDHELD SPARKLERS

-Emits Showers of Sparks-

Cylindrical

Square

Cone

Calif. Rkt.

CAUTION
Emits Showers of Sparks
USE ONLY UNDER CLOSE ADULT SUPERVISION. FOR OUTDOOR USE ONLY. PLACE UPRIGHT ON GROUND. LIGHT FUSE AND GET AWAY. DO NOT HOLD IN HAND.

CAUTION
Emits Showers of Sparks
USE ONLY UNDER CLOSE ADULT SUPERVISION. FOR OUTDOOR USE ONLY. STICK FIRMLY IN GROUND IN AN UPRIGHT POSITION. REMOVE CAP FOR LIGHTING. DO NOT HOLD IN HAND. LIGHT FUSE AND GET AWAY.

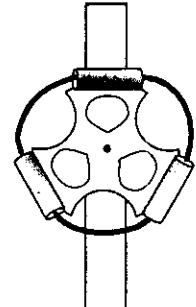
SPARKLERS

Sparkler Tree

certain wire or wood stick sparklers are considered novelties

Sparkling Devices: Wire Stick
CAUTION FLAMMABLE
USE ONLY UNDER CLOSE ADULT SUPERVISION. FOR OUTDOOR USE ONLY. DO NOT TOUCH GLOWING WIRE. HOLD IN HAND WITH ARM EXTENDED AWAY FROM BODY. KEEP BURNING END OR SPARKS AWAY FROM WEARING APPAREL OR OTHER FLAMMABLE MATERIAL. HOLD AND LIGHT ONE DEVICE AT A TIME. AFTER USE PLACE WIRE IN WATER.

SPARKLING WHEEL DEVICES



CAUTION
SPINE ON POST
EMITS FLAME AND SPARKS
USE ONLY UNDER CLOSE ADULT SUPERVISION. FOR OUTDOOR USE ONLY. NAIL TO POST OR STAKE SO THAT WHEEL WILL TURN FREELY. DO NOT HOLD IN HAND. LIGHT FUSE AND GET AWAY.

MAY NOT HAVE MORE THAN 500g OF EXPLOSIVE MIXTURE.

GROUND SPARKLING DEVICES

BALL & DISK
SPINE ON GROUND. EMITS FLAME AND SPARKS.

CYLINDRICAL
SPINE ON GROUND. EMITS FLAME AND SPARKS.

CAUTION
SPINE ON GROUND
EMITS FLAME AND SPARKS
USE ONLY UNDER CLOSE ADULT SUPERVISION. FOR OUTDOOR USE ONLY. PLACE ON HARD, FLAT SURFACE. DO NOT HOLD IN HAND. LIGHT FUSE AND GET AWAY.

SMOKE DEVICES

-Emits Cloud of Smoke-

Calif. Smoke Candle

Smoke Cone

Cylindrical

Toy Smoke Devices
CAUTION FLAMMABLE
USE ONLY UNDER CLOSE ADULT SUPERVISION. FOR OUTDOOR USE ONLY. DO NOT HOLD IN HAND. PLACE ON HARD LEVEL SURFACE. LIGHT FUSE AND GET AWAY.

NOVELTIES

PARTY POPPER
EMITS SHOWERS OF CONFETTI

PARTY POPPERS - BOTTLE TYPE
CAUTION FLAMMABLE
USE ONLY UNDER CLOSE ADULT SUPERVISION. DO NOT POINT TITLES END TOWARD FACE OR OTHER PERSON. HOLD IN HAND - PEEK STRONG

PARTY POPPERS - PISTOL TYPE
CAUTION FLAMMABLE
USE ONLY UNDER CLOSE ADULT SUPERVISION. DO NOT POINT TITLES END TOWARD FACE OR OTHER PERSON. HOLD IN HAND - FULL TRIGGER SHARPLY

POP-ITS
SNAPPERS / DROP POPS

SNAKES
(BLACK PELLET EMITS BLACK ASH)
CAUTION FLAMMABLE
USE ONLY UNDER CLOSE ADULT SUPERVISION. FOR OUTDOOR USE ONLY. DO NOT PUT IN MOUTH. LIGHT TAIL.

Smoke Ball
CAUTION FLAMMABLE
USE ONLY UNDER CLOSE ADULT SUPERVISION. FOR OUTDOOR USE ONLY. DO NOT TOUCH HOT WOOD. HOLD IN HAND WITH ARM EXTENDED AWAY FROM BODY. KEEP BURNING END OR SPARKS AWAY FROM WEARING APPAREL OR OTHER FLAMMABLE MATERIAL. HOLD AND LIGHT ONE DEVICE AT A TIME. AFTER USE PLACE WOOD IN WATER.

MORNING GLORY SPARKLERS

SPARKLERS
Sparkling Devices:
Morning Glories / Wood or Wire Stick

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POLICY: SOCIAL MEDIA

I. PURPOSE

To prohibit the inappropriate use and dissemination of electronic communication systems, media imaging systems, networks, devices, and equipment by department personnel.

II. PROCEDURE

The department may also have an interest in your electronic communications with co-workers, applicants, or other program participants, vendors, suppliers, competitors, and the general public on your own time. Inappropriate communications, even if made on your own time using your own resources, may be grounds for discipline up to and including immediate termination. We encourage you to use good judgment when communicating via blogs, online chat room, networking internet sites, social internet sites, and other electronic and non-electronic forums (collectively "social media"). The following is a general and non-exhaustive list of guidelines you should keep in mind:

- A. Make it clear that the views expressed in social media are yours alone. Do not purport to represent the views of the department in any fashion.
- B. Do not disclose confidential or proprietary information regarding the department or your co-workers. Use of copyrighted or trademarked department information, trade secrets, or other sensitive information may subject you to legal action. If you have any doubt about whether it is proper to disclose information, please discuss it with executive director.
- C. Do not disclose information that could subject the department to legal liability. Data about certain financial transaction, information about medical and health records, and other disclosures may be restricted by state or federal laws. If the department is subjected to government investigation or financial liability based on your disclosures, the department may seek to hold you personally responsible.
- D. Do not use department logos, trademarks, or other symbols in social media. You may not use the department name to endorse, promote, denigrate or otherwise comment on any product, opinion, cause or person.
- E. Be respectful of the privacy and dignity of your co-workers. Do not use or post photos of co-workers without their express consent.
- F. Harassing, obscene, defamatory, threatening, or other offensive content must be avoided. Harassing or discriminatory comments, particularly if made on the basis of gender, race, religion, age, national origin, or other protected characteristic, may be deemed inappropriate even if the department name is not mentioned. If social media communications in any way may adversely affect your relationships at work or violate

department policy, you may be subject to discipline up to and including immediate termination under various department policies.

- G. Ensure that engaging in social media does not interfere with your work commitments.
- H. Social media and similar communications have the potential to reflect on both you and the commission. We hope that you will show respect for our employees, residents, applicants, or other program participants, affiliates and competitors.
- I. **REMEMBER – There is no expectation of privacy.**