

# HOUSE BILL No. 4857

September 9, 2015, Introduced by Rep. Yanez and referred to the Committee on Regulatory Reform.

A bill to amend 2011 PA 256, entitled "Michigan fireworks safety act," by amending sections 2 and 12 (MCL 28.452 and 28.462), section 2 as amended by 2012 PA 257 and section 12 as amended by 2013 PA 65.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2. As used in this act:

2           (a) "Agricultural and wildlife fireworks" means fireworks  
3 devices distributed to farmers, ranchers, and growers through a  
4 wildlife management program administered by the United States  
5 ~~department~~ **DEPARTMENT** of the ~~interior~~ **INTERIOR** or the department of  
6 natural resources of this state.

7           (b) "APA standard 87-1" means 2001 APA standard 87-1, standard  
8 for construction and approval for transportation of fireworks,  
9 novelties, and theatrical pyrotechnics, published by the American  
10 ~~pyrotechnics association~~ **PYROTECHNICS ASSOCIATION** of Bethesda,

1 Maryland.

2 (c) "Articles pyrotechnic" means pyrotechnic devices for  
3 professional use that are similar to consumer fireworks in chemical  
4 composition and construction but not intended for consumer use,  
5 that meet the weight limits for consumer fireworks but are not  
6 labeled as such, and that are classified as UN0431 or UN0432 under  
7 49 CFR 172.101.

8 (d) "Citation" means ~~that term~~ **A CITATION** as described in  
9 section 17a.

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

12 (f) "Consumer fireworks" means fireworks devices that are  
13 designed to produce visible effects by combustion, that are  
14 required to comply with the construction, chemical composition, and  
15 labeling regulations promulgated by the United States ~~consumer~~  
16 ~~product safety commission~~ **CONSUMER PRODUCT SAFETY COMMISSION** under  
17 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-  
18 1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks ~~does~~ **DO** not include  
19 low-impact fireworks.

20 (g) "Consumer fireworks certificate" means a certificate  
21 issued under section 4.

22 (h) "Department" means the department of licensing and  
23 regulatory affairs.

24 (i) "Display fireworks" means large fireworks devices that are  
25 explosive materials intended for use in fireworks displays and  
26 designed to produce visible or audible effects by combustion,  
27 deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR

1 172, and APA standard 87-1, 4.1.

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

8 (k) "Fireworks safety fund" means the fireworks safety fund  
9 created in section 11.

10 (l) "Local unit of government" means a city, village, or  
11 township.

12 (m) "Low-impact fireworks" means ground and handheld sparkling  
13 devices as that phrase is defined under APA standard 87-1, 3.1,  
14 3.1.1.1 to 3.1.1.8, and 3.5.

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

17 (o) "NFPA" means the ~~national fire protection association~~  
18 **NATIONAL FIRE PROTECTION ASSOCIATION** headquartered at 1  
19 Batterymarch Park, Quincy, Massachusetts.

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

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

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

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

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

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

7 (v) "Novelties" means that term as defined under APA standard  
8 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the  
9 following:

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

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

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

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

26 (w) "Permanent building or structure" ~~is~~ **MEANS** a building or  
27 structure that is affixed to a foundation on a site that has fixed

1 utility connections and that is intended to remain on the site for  
2 more than 180 consecutive calendar days.

3 (x) "Person" means an individual, agent, association,  
4 charitable organization, company, limited liability company,  
5 corporation, labor organization, legal representative, partnership,  
6 unincorporated organization, or any other legal or commercial  
7 entity.

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

10 (z) "Retail location" means a facility listed under NFPA 1124,  
11 7.1.2.

12 (aa) "Rule" means that term as defined in section 7 of the  
13 administrative procedures act of 1969, 1969 PA 306, MCL 24.207,  
14 that was promulgated by the department.

15 (bb) "Serious impairment of a body function" means that term  
16 as defined in section 58c of the Michigan vehicle code, 1949 PA  
17 300, MCL 257.58c.

18 (cc) "Serious violation" means a violation of this act, an  
19 order issued under this act, or a rule promulgated or adopted by  
20 reference under this act for which a substantial probability exists  
21 that death or serious impairment of a body function to a person  
22 other than the violator may result unless the violator did not and  
23 could not, with the exercise of reasonable diligence, know of the  
24 presence of the violation.

25 **(DD) "SKY LANTERN" MEANS AN UNMANNED, SELF-CONTAINED LUMINARY**  
26 **DEVICE THAT USES A BALLOON TO BECOME AIRBORNE AND THAT WHILE**  
27 **AIRBORNE HAS AN OPEN FLAME OR OTHER HEAT SOURCE.**

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

7           (FF) ~~(ee)~~—"State fire marshal" means the state fire marshal  
8 appointed under section 1b of the fire prevention code, 1941 PA  
9 207, MCL 29.1b.

10           (GG) ~~(ff)~~—"Warehouse" means a permanent building or structure  
11 used primarily for the storage of consumer fireworks or low-impact  
12 fireworks.

13           (HH) ~~(gg)~~—"Wholesaler" means any person who sells consumer  
14 fireworks or low-impact fireworks to a retailer or any other person  
15 for resale. Wholesaler does not include a person who sells only  
16 display fireworks or special effects.

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

25           (2) ~~Consumer~~ **A PERSON SHALL NOT SELL CONSUMER** fireworks shall  
26 ~~not be sold~~ to a minor. A person that violates this subsection  
27 shall be ordered to pay a civil fine of not more than \$500.00, or,

1 for a second or subsequent violation of this subsection, a civil  
2 fine of not more than \$1,000.00. In addition, the person's consumer  
3 fireworks certificate shall be suspended for 90 days after the  
4 civil fine is ordered for a second or subsequent violation. ~~This~~  
5 ~~age requirement shall be verified~~ **THE SELLER SHALL VERIFY THE AGE**  
6 **OF A PURCHASER** by any of the following:

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

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

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

15 (d) A military identification card.

16 (e) A passport.

17 (f) Any other bona fide ~~photograph~~ **PHOTOGRAPHIC** identification  
18 that establishes the identity and age of the individual.

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

24 (a) "Alcoholic liquor" means that term as defined in section  
25 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

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

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

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

7           **(6) A PERSON SHALL NOT SELL AT RETAIL OR IGNITE A SKY LANTERN**  
8 **OR RELEASE AN IGNITED SKY LANTERN.**

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