

# HOUSE BILL NO. 5872

June 27, 2024, Introduced by Rep. Shannon and referred to the Committee on Regulatory Reform.

A bill to amend 2011 PA 256, entitled  
"Michigan fireworks safety act,"  
by amending sections 5 and 7 (MCL 28.455 and 28.457), section 5 as  
amended by 2018 PA 634 and section 7 as amended by 2018 PA 635.

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

1           Sec. 5. (1) A person shall not sell consumer fireworks from a  
2 retail location unless all of the following conditions are met:  
3           (a) Except as provided in subdivision (b), the retail location  
4 and any adjacent or directly associated retail storage satisfies  
5 the applicable requirements of NFPA 101 and NFPA 1124 for consumer

1 and low-impact fireworks that are not in conflict with this act and  
2 the Stille-DeRossett-Hale single state construction code act, 1972  
3 PA 230, MCL 125.1501 to 125.1531. Any provision of the Stille-  
4 DeRossett-Hale single state construction code act, 1972 PA 230, MCL  
5 125.1501 to 125.1531, that is inconsistent with the applicable  
6 requirements of NFPA 101 and NFPA 1124 is superseded to the extent  
7 of the inconsistency or conflict.

8 (b) If the retail location is a permanent building or  
9 structure, the building or structure is equipped with a fire  
10 suppression system in compliance with NFPA 1124. Beginning on ~~the~~  
11 ~~effective date of the 2018 act that added this sentence~~ **December**  
12 **28, 2018** and notwithstanding the NFPA 1124 requirements regarding  
13 automatic sprinkler systems, if the retail location is in a  
14 permanent multitenant building or structure, the building or  
15 structure must be equipped with an automatic sprinkler system. The  
16 requirement for an automatic sprinkler system described in this  
17 subdivision does not apply to the retail location of a person that  
18 held a consumer fireworks certificate for a retail location of the  
19 same address in a permanent building or structure during the  
20 calendar year before ~~the effective date of the 2018 act that added~~  
21 ~~this sentence~~. **December 28, 2018.**

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

24 (d) The retailer has a valid federal taxpayer identification  
25 number. This requirement does not apply to a retailer that is a  
26 sole proprietorship.

27 (2) A person that fails or neglects to comply with subsection  
28 (1) is responsible for a civil fine of not more than \$2,500.00 for  
29 each violation. The department shall determine the amount of the

1 fine imposed under this subsection by applying a scale, as  
2 developed by the department, that reflects the severity of the  
3 violation. Each day that a person is in noncompliance is a separate  
4 violation.

5 (3) During any period of time in which a person is selling  
6 consumer fireworks, the person shall add as an additional insured,  
7 or obtain and maintain public liability and product liability  
8 insurance coverage for, each retail location at which the person is  
9 selling consumer fireworks, in an amount not less than  
10 \$10,000,000.00 per occurrence. If the department determines that a  
11 person has failed or neglected to comply with this subsection, the  
12 department shall order the person to immediately cease operations  
13 and pay a civil fine of not more than \$5,000.00.

14 (4) A retailer shall provide with every purchase of consumer  
15 fireworks a notice listing the dates and times permitted under this  
16 act for the ignition, discharge, and use of consumer fireworks. The  
17 notice ~~shall~~**must** begin with the following statement: "State law  
18 permits, under MCL 28.457, the ignition, discharge, and use of  
19 consumer fireworks at the following times:". ~~The~~**If a local**  
20 **ordinance that pertains to the ignition, discharge, and use of**  
21 **fireworks has been enacted in the jurisdiction where the retailer**  
22 **is located, the notice under this subsection must include the**  
23 **language required under the ordinance. Except as otherwise provided**  
24 **in this subsection, the** retailer may provide the notice in a form  
25 and manner determined by the retailer, including, but not limited  
26 to, printing or stamping the notice on, or affixing the notice to,  
27 a receipt, bag, or the product being purchased, or a printed  
28 handout provided at the time of purchase. **If a local ordinance**  
29 **specifies the form and manner of a notice under this subsection,**

1 **the notice must conform to the ordinance.** Posting the notice on a  
 2 wall, window, display, or otherwise, at the retail location, does  
 3 not satisfy the requirements of this subsection. A retailer who  
 4 fails to provide the notice required by this subsection is  
 5 responsible for a civil fine of \$100.00 for each day on which 1 or  
 6 more violations occur. The department shall provide for the  
 7 remittance of the fine collected under this subsection to the local  
 8 law enforcement agency responsible for enforcing the notice  
 9 requirement.

10 (5) A person shall not engage in the retail sale of consumer  
 11 fireworks over the telephone, internet, or other like manner unless  
 12 the consumer fireworks are picked up or shipped from a permanent  
 13 location for which the person holds a valid consumer fireworks  
 14 certificate.

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

20 (2) A local unit of government may enact an ordinance  
 21 ~~regulating~~**that regulates** the ignition, discharge, and use of  
 22 consumer fireworks, including, but not limited to, an ordinance  
 23 ~~prescribing~~**that prescribes** the hours of the day or night during  
 24 which a person may ignite, discharge, or use consumer fireworks. If  
 25 a local unit of government enacts an ordinance under this  
 26 subsection, the ordinance ~~shall~~**must** not regulate the ignition,  
 27 discharge, or use of consumer fireworks on the following days after  
 28 11 a.m.:

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

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

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

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

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

8 (3) An ordinance under subsection (2) ~~shall~~**must** impose a  
9 civil fine of \$1,000.00 for each violation of the ordinance and no  
10 other fine or sanction. The ordinance must provide for the  
11 remittance of \$500.00 ~~of the~~**from each** fine collected under the  
12 ordinance to the local law enforcement agency responsible for  
13 ~~enforcing~~**the enforcement of** the ordinance.

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

1           (5) A local unit of government may enact an ordinance to  
2 require a retailer to display a sign in a conspicuous place at the  
3 retail location that clearly describes both of the following:

4           (a) The dates and times permitted under this act for the  
5 ignition, discharge, and use of consumer fireworks.

6           (b) Any limitations on the dates and times that a person may  
7 ignite, discharge, or use consumer fireworks under an ordinance  
8 adopted under this section in a local unit of government in which  
9 the retail location is located.

10          (6) A local unit of government may enact an ordinance to  
11 specify the form and manner a retailer gives notice to a consumer  
12 under section 5(4).