

# HOUSE BILL No. 4412

March 4, 1997, Introduced by Rep. Nye and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending sections 243a and 243b (MCL 750.243a and 750.243b),  
section 243a as amended by 1980 PA 422, and by adding section  
243f.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 243a. (1) As used in this chapter:

2       ~~-(a) "Fireworks" means a device made from explosive or flam-~~  
3 ~~mable compositions used primarily for the purpose of producing a~~  
4 ~~visible display or audible effect, or both, by combustion, defla-~~  
5 ~~gration, or detonation. Fireworks includes class B fireworks and~~  
6 ~~class C fireworks.~~

7       ~~(b) "Class B fireworks" means toy torpedoes, railway~~  
8 ~~torpedoes, firecrackers or salutes that do not qualify as class C~~  
9 ~~fireworks, exhibition display pieces, aeroplane flares,~~

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

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

13 (A) "CLASS B FIREWORKS" MEANS 1 OR MORE OF THE FOLLOWING:

14 (i) A TOY TORPEDO, RAILWAY TORPEDO, FIRECRACKER, OR SALUTE  
15 THAT DOES NOT QUALIFY AS CLASS C FIREWORKS.

16 (ii) AN EXHIBITION DISPLAY PIECE, AEROPLANE FLARE, ILLUMI-  
17 NATING PROJECTILE, INCENDIARY PROJECTILE, INCENDIARY GRENADE,  
18 SMOKE PROJECTILE, OR BOMB THAT CONTAINS AN EXPELLING CHARGE BUT  
19 THAT DOES NOT CONTAIN A BURSTING CHARGE.

20 (iii) FLASH POWDER IN AN INNER UNIT THAT DOES NOT EXCEED 2  
21 OUNCES PER UNIT.

22 (iv) A FLASH SHEET IN AN INTERIOR PACKAGE.

23 (v) A FLASH POWDER OR SPREADER CARTRIDGE CONTAINING NOT MORE  
24 THAN 72 GRAINS OF FLASH POWDER.

25 (vi) ANY OTHER DEVICE SUBSTANTIALLY SIMILAR TO A DEVICE  
26 DESCRIBED IN SUBPARAGRAPHS (i) TO (v), OR THOSE CLASSIFIED AS

1 1.3G UNDER SUBPART C OF PART 173 OF TITLE 49 OF THE CODE OF  
2 FEDERAL REGULATIONS, 49 C.F.R. 173.50 TO 173.64.

3 (B) "CLASS C FIREWORKS" MEANS 1 OR MORE OF THE FOLLOWING:

4 (i) A TOY SMOKE DEVICE.

5 (ii) A TOY CAP CONTAINING NOT MORE THAN .25 GRAINS OF EXPLO-  
6 SIVE MIXTURE.

7 (iii) A TOY PROPELLANT DEVICE.

8 (iv) A CIGARETTE LOAD.

9 (v) A TRICK MATCH.

10 (vi) A TRICK NOISE MAKER.

11 (vii) A SMOKE CANDLE, SMOKE POT, SMOKE GRENADE, OR SMOKE  
12 SIGNAL.

13 (viii) A HAND SIGNAL DEVICE.

14 (ix) A VERY SIGNAL CARTRIDGE.

15 (x) A SPARKLER.

16 (xi) AN EXPLOSIVE AUTO ALARM.

17 (xii) ANY OTHER DEVICE SUBSTANTIALLY SIMILAR TO A DEVICE  
18 DESCRIBED IN SUBPARAGRAPHS (i) TO (xi), OR THOSE CLASSIFIED AS  
19 1.4G UNDER SUBPART C OF PART 173 OF TITLE 49 OF THE CODE OF FED-  
20 ERAL REGULATIONS, 49 C.F.R. 173.50 TO 173.64.

21 (C) "FIREWORKS" MEANS A DEVICE MADE FROM AN EXPLOSIVE OR  
22 FLAMMABLE COMPOSITION THAT IS USED PRIMARILY TO PRODUCE A VISIBLE  
23 DISPLAY OR AUDIBLE EFFECT, OR BOTH, BY COMBUSTION, DEFLAGRATION,  
24 OR DETONATION. FIREWORKS INCLUDES CLASS B FIREWORKS AND CLASS C  
25 FIREWORKS.

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

1 (2) Except as provided in subsection (3) and sections 243b,  
2 243c, ~~and~~ 243d, AND 243F, a person ~~, firm, partnership, or~~  
3 ~~corporation~~ shall not offer for sale, expose for sale, sell at  
4 retail, keep with intent to sell at retail, possess, give, fur-  
5 nish, transport, use, explode, or cause to explode any of the  
6 following:

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

9 (b) An unmanned balloon ~~which~~ THAT requires fire under-  
10 neath to propel it and THAT is not moored to the ground while  
11 aloft.

12 (c) ~~Firecrackers, torpedoes, skyrockets, roman candles,~~  
13 ~~daygo bombs, bottle rockets, whistling chasers, rockets on~~  
14 ~~sticks,~~ A FIRECRACKER, TORPEDO, SKYROCKET, ROMAN CANDLE, DAYGO  
15 BOMB, BOTTLE ROCKET, WHISTLING CHASER, ROCKET ON A STICK, or  
16 other ~~fireworks~~ FIREWORK of ~~like~~ SUBSTANTIALLY SIMILAR  
17 construction.

18 (d) Fireworks containing an explosive or ~~inflammable~~  
19 FLAMMABLE compound. ~~or a~~

20 (E) A tablet or other device commonly used and sold as fire-  
21 works ~~containing nitrates, fulminates, chlorates, oxalates,~~  
22 ~~sulphides~~ THAT CONTAINS A NITRATE, FULMINATE, CHLORATE, OXALATE,  
23 SULPHIDE of lead, barium, antimony, arsenic, mercury, nitroglyc-  
24 erine, phosphorus, or a compound containing these or ANY other  
25 modern explosives.

26 (3) ~~A~~ EXCEPT AS PROVIDED IN SECTION 243F, A permit is not  
27 required for ANY OF the following:

1 (a) Flat paper caps containing not more than .25 of a grain  
2 of explosive content per cap, in ~~packages~~ A PACKAGE labeled to  
3 indicate the maximum explosive content per cap.

4 (b) ~~Toy pistols~~ A TOY PISTOL, toy ~~cannons~~ CANNON, toy  
5 ~~canes~~ CANE, toy trick noise ~~makers~~ MAKER, ~~and~~ OR toy ~~guns~~  
6 GUN of a type approved by the director of the department of state  
7 police in which paper caps as described in subdivision (a) are  
8 used and ~~which are so~~ THAT IS constructed SO that ~~the~~ A hand  
9 cannot come in contact with the cap when THE CAP IS in place for  
10 the explosion and ~~which are~~ THAT IS not designed to break apart  
11 or be separated so as to form a missile by the explosion.

12 ~~(c) Sparklers containing not more than .0125 pounds of~~  
13 ~~burning portion per sparkler.~~

14 (C) ~~(d) Flitter sparklers~~ A FLITTER SPARKLER in A paper  
15 ~~tubes~~ TUBE not exceeding ~~1/8~~ 1/4 inch in diameter. ~~, cone~~  
16 ~~fountains, and cylinder fountains.~~

17 (D) ~~(e) Toy snakes~~ A TOY SNAKE THAT DOES not ~~containing~~  
18 CONTAIN mercury, if THE TOY SNAKE IS packed in A cardboard  
19 ~~boxes~~ BOX with not more than 12 pieces per box for retail sale  
20 and if the manufacturer's name and the quantity OF TOY SNAKES  
21 contained in each box are printed on the box. ~~and toy smoke~~  
22 ~~devices.~~

23 (E) A TOY SMOKE DEVICE.

24 (f) ~~Possession, transportation, sale, or use of~~  
25 POSSESSING, TRANSPORTING, SELLING, OR USING ANY OF THE  
26 FOLLOWING:

1 (i) A signal ~~flares~~ FLARE of a type approved by the  
2 director of the department of state police. ~~,~~

3 (ii) A blank ~~cartridges~~ CARTRIDGE or blank cartridge  
4 ~~pistols~~ PISTOL specifically DESIGNED for ~~a~~ USE IN ANY OF THE  
5 FOLLOWING:

6 (A) A show or theater. ~~, for the training~~

7 (B) TRAINING or exhibiting ~~of~~ dogs. ~~, for signal~~

8 (C) SIGNAL purposes in athletic sports. ~~, for use by~~  
9 ~~military~~

10 (D) MILITARY organizations. ~~, and all items~~

11 (iii) ANY DEVICE described in subsection (2) THAT IS used OR  
12 INTENDED TO BE USED by ~~railroads~~ A RAILROAD for emergency  
13 signal purposes.

14 (g) ~~The sale of fireworks, provided they are to be shipped~~  
15 ~~directly out of~~ FIREWORKS THAT ARE SOLD IN THIS STATE BUT ARE  
16 DELIVERED BY THE SELLER TO A BUYER IN ANOTHER state, ~~pursuant~~  
17 ~~to~~ AND THE DELIVERY IS MADE IN COMPLIANCE WITH regulations of  
18 the United States department of transportation covering the  
19 transportation of explosives and other dangerous articles by  
20 motor, rail, ~~and~~ OR water.

21 (H) THE POSSESSION OR USE OF FIREWORKS PURCHASED FROM A  
22 RETAILER IN COMPLIANCE WITH SECTION 243F.

23 Sec. 243b. (1) The council or commission of a city or vil-  
24 lage or the township board of a township, upon application in  
25 writing, on ~~forms~~ A FORM provided by the director of the  
26 department of state police, may grant a permit ~~for the~~ TO use  
27 ~~of~~ fireworks WITHIN THE POLITICAL JURISDICTION OF THAT CITY,

1 VILLAGE, OR TOWNSHIP THAT ARE otherwise prohibited by section  
2 243a, ~~within their political jurisdiction, manufactured~~ for  
3 outdoor pest control or agricultural purposes, or for public dis-  
4 play by ~~municipalities~~ fair ~~associations~~ ASSOCIATION, amuse-  
5 ment ~~parks~~ PARK, or other ~~organizations~~ ORGANIZATION or  
6 ~~groups~~ GROUP of individuals approved by the city, village, or  
7 township authority. ~~, if the applicable provisions of this act~~  
8 ~~are complied with.~~ The ~~permits~~ A PERMIT shall be ISSUED on  
9 ~~forms~~ A FORM provided by the director of the department of  
10 state police. ~~After~~ IF a permit ~~has been granted, sales, pos-~~  
11 ~~session, or transportation of~~ IS ISSUED UNDER THIS SECTION, THE  
12 PERMIT HOLDER MAY SELL, POSSESS, OR TRANSPORT fireworks for ~~the~~  
13 ~~purposes~~ ANY PURPOSE described in the permit. ~~only made be~~  
14 ~~made.~~ A permit ~~granted~~ ISSUED under this subsection ~~shall~~ IS  
15 not ~~be~~ transferable, ~~nor~~ AND shall ~~a permit~~ NOT be issued  
16 to ~~a person under the age of~~ AN INDIVIDUAL LESS THAN 18 years  
17 OF AGE.

18 (2) The council or commission of a city or village or the  
19 township board of a township, upon application in writing, may  
20 grant a permit, on ~~forms~~ A FORM provided by the director of the  
21 department of state police, to a resident wholesale dealer or  
22 jobber to have FIREWORKS OTHERWISE PROHIBITED UNDER SECTION 243A  
23 in his OR HER possession within the political jurisdiction ~~,~~  
24 ~~fireworks otherwise prohibited by section 243a,~~ for sale only to  
25 holders of permits as provided in this section. A permit granted  
26 under this subsection is not transferable, ~~nor~~ AND shall ~~a~~

1 ~~permit~~ NOT be issued to ~~a person under the age of~~ AN  
2 INDIVIDUAL LESS THAN 18 years OF AGE.

3 (3) Before a permit for a pyrotechnic display is issued, the  
4 person, firm, or corporation making application ~~therefor~~ FOR  
5 THE PERMIT shall furnish proof of financial responsibility by a  
6 bond or insurance in an amount ~~deemed~~ CONSIDERED necessary by  
7 the local governing authority to satisfy ALL claims for damages  
8 to property or personal injuries arising out of an act or omis-  
9 sion on the part of the person, firm, or corporation, or an agent  
10 or employee ~~thereof,~~ OF THAT PERSON, FIRM, OR CORPORATION. THE  
11 BOND OR INSURANCE SHALL BE in the amount, character, and form the  
12 local authority determines IS necessary ~~for the protection of~~  
13 TO PROTECT the public.

14 (4) A permit shall not be issued under this act to a nonres-  
15 ident person, firm, or corporation ~~for~~ TO conduct ~~of~~ a pyro-  
16 technic display in this state until the person, firm, or corpora-  
17 tion has appointed in writing a resident member of the ~~bar of~~  
18 ~~this state~~ STATE BAR OF MICHIGAN or a resident ~~agent~~ OF THIS  
19 STATE to be his OR HER legal representative upon whom all process  
20 in an action or proceeding against him OR HER may be served.

21 (5) The local governing authority shall ~~rule on~~ CONSIDER  
22 the competency and qualifications of ~~operators~~ A PROSPECTIVE  
23 OPERATOR of A pyrotechnic ~~displays, as the operator has~~ DISPLAY  
24 BASED UPON THE INFORMATION furnished in his OR HER application  
25 form ~~, and on~~ BEFORE ISSUING A PERMIT UNDER THIS SECTION.



1 (6) THE LOCAL GOVERNING AUTHORITY SHALL CONSIDER the time,  
2 place, and safety aspects of the ~~displays~~ DISPLAY before  
3 ~~granting permits~~ ISSUING A PERMIT UNDER THIS SECTION.

4 (7) A LOCAL GOVERNING AUTHORITY SHALL NOT ISSUE A PERMIT TO  
5 A PERSON TO DISPLAY FIREWORKS DESCRIBED IN SECTION 243F(5) FOR  
6 SALE AT RETAIL, OFFER TO SELL THOSE FIREWORKS AT RETAIL, SELL  
7 THOSE FIREWORKS AT RETAIL, OR POSSESS THOSE FIREWORKS FOR SALE AT  
8 RETAIL.

9 SEC. 243F. (1) A PERSON MAY APPLY TO THE SECRETARY OF STATE  
10 FOR A LICENSE TO DISPLAY FOR SALE AT RETAIL, OFFER TO SELL AT  
11 RETAIL, SELL AT RETAIL, OR POSSESS FOR SALE AT RETAIL FIREWORKS  
12 DESCRIBED IN SUBSECTION (5), AS PROVIDED IN THIS SECTION. THE  
13 APPLICATION SHALL BE ON A FORM PROVIDED BY THE SECRETARY OF  
14 STATE. THE APPLICATION SHALL CONTAIN ALL OF THE FOLLOWING  
15 INFORMATION:

16 (A) THE APPLICANT'S NAME AND ADDRESS.

17 (B) EACH BUSINESS LOCATION AT WHICH THE FIREWORKS WILL BE  
18 DISPLAYED, OFFERED FOR SALE, SOLD, OR POSSESSED.

19 (C) THE APPLICANT'S SALES TAX IDENTIFICATION NUMBER.

20 (D) ANY OTHER INFORMATION CONSIDERED NECESSARY BY THE SECRE-  
21 TARY OF STATE.

22 (2) AN APPLICANT SHALL PAY A FEE OF \$500.00 WHEN THE APPLI-  
23 CATION IS SUBMITTED TO THE SECRETARY OF STATE. THE SECRETARY OF  
24 STATE SHALL FORWARD ALL FEES COLLECTED UNDER THIS SECTION TO THE  
25 STATE TREASURER AS REQUIRED BY THE STATE TREASURER FOR DEPOSIT IN  
26 THE GENERAL FUND.

1 (3) A LICENSE ISSUED UNDER THIS SECTION SHALL BE ON A FORM  
2 PROVIDED BY THE SECRETARY OF STATE. THE LICENSE IS VALID FOR 1  
3 YEAR. THE LICENSE MAY BE RENEWED IN THE SAME MANNER AS AN ORIGI-  
4 NAL LICENSE IS ISSUED. THE PERSON SHALL KEEP A COPY OF THE  
5 LICENSE ON EACH BUSINESS PREMISE ON WHICH FIREWORKS ARE DIS-  
6 PLAYED, OFFERED FOR SALE, SOLD, OR POSSESSED UNDER THIS SECTION.  
7 THE PERSON SHALL IMMEDIATELY SHOW THE LICENSE TO A PEACE OFFICER  
8 UPON DEMAND BY THAT PEACE OFFICER.

9 (4) A PERSON LICENSED UNDER THIS SECTION MAY DISPLAY FOR  
10 SALE AT RETAIL, OFFER TO SELL AT RETAIL, OR SELL AT RETAIL FIRE-  
11 WORKS DESCRIBED IN SUBSECTION (5) ONLY FROM JUNE 1 OF EACH YEAR  
12 THROUGH JULY 15 OF THAT YEAR. THE PERSON MAY POSSESS FIREWORKS  
13 DESCRIBED IN SUBSECTION (5) THAT ARE INTENDED FOR SALE AT RETAIL  
14 AT ANY TIME DURING WHICH THE LICENSE IS VALID. A PERSON WHO IS  
15 NOT LICENSED UNDER THIS SECTION SHALL NOT DISPLAY FOR SALE AT  
16 RETAIL, OFFER TO SELL AT RETAIL, SELL AT RETAIL, OR POSSESS FOR  
17 SALE AT RETAIL FIREWORKS DESCRIBED IN SUBSECTION (5).

18 (5) THE FOLLOWING FIREWORKS MAY BE DISPLAYED FOR SALE AT  
19 RETAIL, OFFERED FOR SALE AT RETAIL, SOLD AT RETAIL, OR POSSESSED  
20 FOR SALE AT RETAIL UNDER THIS SECTION:

21 (A) A STARLIGHT WITH A WOODEN SPIKE AT 1 END IF THE TOTAL  
22 PYROTECHNIC COMPOSITION DOES NOT EXCEED 20 GRAMS.

23 (B) A HELICOPTER-TYPE FLYER IF THE TOTAL PYROTECHNIC COMPO-  
24 SITION DOES NOT EXCEED 20 GRAMS.

25 (C) A CYLINDER FOUNTAIN IF THE TOTAL PYROTECHNIC COMPOSITION  
26 DOES NOT EXCEED 70 GRAMS AND INSIDE DIAMETER DOES NOT EXCEED .75  
27 INCH.

1 (D) A CONE FOUNTAIN IF THE TOTAL PYROTECHNIC COMPOSITION  
2 DOES NOT EXCEED 50 GRAMS.

3 (E) A WHEEL FOUNTAIN OR GROUND SPINNER IF THE TOTAL PYRO-  
4 TECHNIC COMPOSITION DOES NOT EXCEED 60 GRAMS FOR EACH DRIVER UNIT  
5 AND THE INSIDE DIAMETER OF EACH DRIVER UNIT DOES NOT EXCEED .75  
6 INCH.

7 (F) AN ILLUMINATING TORCH OR COLORED FIRE IN ANY FORM IF THE  
8 TOTAL PYROTECHNIC COMPOSITION DOES NOT EXCEED 100 GRAMS.

9 (G) A SPARKLER OR DIPPED STICK IF THE TOTAL PYROTECHNIC COM-  
10 POSITION DOES NOT EXCEED 100 GRAMS, OR, IF THE PYROTECHNIC COMPO-  
11 SITION CONTAINS ANY CHLORATE, THE PYROTECHNIC COMPOSITION DOES  
12 NOT EXCEED 5 GRAMS.

13 (H) A COMET, SHELL, RELOADABLE TUBE, OR MULTIPLE UNIT, IF  
14 THE TOTAL PYROTECHNIC COMPOSITION OF EACH COMET, SHELL, RELOA-  
15 DABLE TUBE, OR MULTIPLE UNIT DOES NOT EXCEED 40 GRAMS.

16 (I) A SOFT-SHELLED FIRECRACKER THAT IS NOT MORE THAN 1.50  
17 INCHES LONG AND .25 INCH IN DIAMETER IF THE TOTAL PYROTECHNIC  
18 COMPOSITION DOES NOT EXCEED 50 MILLIGRAMS.

19 (J) AN AERIAL DEVICE INCORPORATING A SOFT-SHELLED FIRECRACK-  
20 ER, IF THE TOTAL PYROTECHNY COMPOSITION DOES NOT EXCEED 130  
21 MILLIGRAMS.

22 (K) A WHISTLE WITHOUT A REPORT IF THE TOTAL PYROTECHNIC COM-  
23 POSITION DOES NOT EXCEED 40 GRAMS.

24 (6) THIS SECTION DOES NOT ALLOW A PERSON TO DISPLAY FOR SALE  
25 AT RETAIL, OFFER TO SELL AT RETAIL, SELL AT RETAIL, OR POSSESS  
26 FOR SALE AT RETAIL FIREWORKS THAT ARE PROHIBITED TO SELL OR  
27 POSSESS UNDER FEDERAL LAW.