

HOUSE BILL NO. 5300

December 11, 2019, Introduced by Reps. Lilly and Iden and referred to the Committee on Government Operations.

A bill to amend 2011 PA 256, entitled
"Michigan fireworks safety act,"
by amending sections 5 and 17 (MCL 28.455 and 28.467), as amended
by 2018 PA 634.

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) **and subsection (6)**,
4 the retail location and any adjacent or directly associated retail
5 storage satisfies the applicable requirements of NFPA 101 and NFPA



1 1124 for consumer and low-impact fireworks that are not in conflict
 2 with this act and the Stille-DeRossett-Hale single state
 3 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. Any
 4 provision of the Stille-DeRossett-Hale single state construction
 5 code act, 1972 PA 230, MCL 125.1501 to 125.1531, that is
 6 inconsistent with the applicable requirements of NFPA 101 and NFPA
 7 1124 is superseded to the extent of the inconsistency or conflict.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 **sells** consumer fireworks, the person shall add as an additional
7 insured, or obtain and maintain public liability and product
8 liability insurance coverage for, each retail location at which the
9 person ~~is selling~~ **sells** consumer fireworks, in an amount not less
10 than \$10,000,000.00 per occurrence. If the department determines
11 that a person has failed or neglected to comply with this
12 subsection, the department shall order the person to immediately
13 cease operations 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~~ **that lists** the dates and times permitted
16 under this act for the ignition, discharge, and use of consumer
17 fireworks. The notice shall begin with the following statement:
18 "State law permits, under MCL 28.457, the ignition, discharge, and
19 use of consumer fireworks at the following times:". The retailer
20 may provide the notice in a form and manner determined by the
21 retailer, including, but not limited to, printing or stamping the
22 notice on, or affixing the notice to, a receipt, bag, or the
23 product being purchased, or a printed handout provided at the time
24 of purchase. Posting the notice on a wall, window, display, or
25 otherwise, at the retail location, does not satisfy the
26 requirements of this subsection. A retailer who fails to provide
27 the notice required by this subsection is responsible for a civil
28 fine of \$100.00 for each day on which 1 or more violations occur.
29 The department shall provide for the remittance of the fine



1 collected under this subsection to the local law enforcement agency
2 responsible for enforcing the notice requirement.

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

8 (6) **Notwithstanding any other provisions of law to the**
9 **contrary, the flame breaks must not be required to be less than 32**
10 **feet of consumer fireworks that is displayed along a wall. The**
11 **department shall not restrict the depth of the consumer fireworks**
12 **display if the retail location meets the minimum floor space**
13 **required under the NFPA standards. As used in this subsection,**
14 **"flame break" means a solid material, without holes or other**
15 **openings, that is used to retard the spread of flame.**

16 Sec. 17. Except as otherwise provided in this act, this act
17 does not prohibit any of the following:

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

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

24 (c) The use of agricultural or wildlife fireworks.

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

27 (i) A show or play.

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

29 (iii) Use by military organizations.



1 (iv) Use by law enforcement agencies.

2 (e) The possession, sale, or disposal of fireworks incidental
3 to the public display of fireworks by wholesalers or other persons
4 who possess a permit to possess, store, or sell explosives from the
5 ~~bureau of alcohol, tobacco, firearms, and explosives~~ **Bureau of**
6 **Alcohol, Tobacco, Firearms, and Explosives** of the United States
7 Department of Justice.

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

10 (g) A person from parking a motor vehicle, or trailer, that is
11 not being used for the storage of consumer fireworks, within 10
12 feet of a permanent building or structure used in the retail sale
13 of consumer fireworks.

14 (h) **The storage of articles pyrotechnic for wholesale at a**
15 **retail facility that holds a valid consumer fireworks certificate**
16 **if the articles pyrotechnic are not sold at retail.**

