



MICHIGAN STATE POLICE LEGAL UPDATE

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CRIMINAL LAW AND PROCEDURE MANUAL

The 2010 edition of *Michigan Criminal Law and Procedure: A Manual for Michigan Police Officers* is available for purchase.

The manual is published by [Kendall Hunt Publishing Co.](#) Copies may be ordered by calling Kendall Hunt Customer Service at (800) 228-0810, or through their [online catalog](#) (search by title or ISBN: 978-0-7575-8710-8).

STATUTES

Michigan fireworks laws amended to expand the types of fireworks that may be sold to and used by consumers without a permit.

[Public Act 256 of 2011](#) repealed the Fireworks Chapter of the Michigan Penal Code, MCL 750.243a – 750.243e and established the [Michigan Fireworks Safety Act](#) (Act), MCL 28.451 – 28.471. The Act allows for the sale and use of consumer fireworks without a permit, prescribes licensing requirements and conditions for retailers, and establishes restrictions and penalties for improper use of fireworks.

Consumer fireworks are fireworks devices designed to produce visible effects by combustion, that are required to comply with United States Consumer Product Safety Commission requirements, and are listed in [American Pyrotechnics Association Standard 87-1](#), 3.1.2, 3.1.3, or 3.5. Examples include firecrackers, sky lanterns, bottle rockets, roman candles, and certain aerial shells not exceeding 1.75” in diameter.

[MCL 28.454](#) prohibits a person from selling consumer fireworks unless the person annually obtains a Consumer Fireworks Certificate from the Department of Licensing and Regulatory Affairs, Bureau of Fire

Services (BFS). A person who knows, or should know, that he or she is required to obtain a Consumer Fireworks Certificate and fails or neglects to do so is guilty of a 2-year misdemeanor. The holder of a Consumer Fireworks Certificate shall prominently display the original or a copy of the certificate in the retail location. A person who fails to display the certificate is responsible for a \$100 civil fine.

Low-impact fireworks remain legal in Michigan. These fireworks are ground-based or handheld devices that produce a shower of white, gold, or color sparks as their primary pyrotechnic effect, with additional effects such as a colored flame, an audible crackling effect, an audible whistle effect. Examples include cylindrical, cone and wheel fountains, smoke devices, ground spinners, and certain sparklers.

[MCL 28.456](#) prohibits a person from selling low-impact fireworks unless he or she has registered online with the Low-Impact Fireworks Registry at least 10 days before selling the fireworks. Registration is required every calendar year. Violation is a 30-day misdemeanor and the person shall cease all sales until compliance with this section is achieved.

Novelty fireworks include plastic and paper caps for toy pistols, party poppers, snappers, toy smoke devices, snakes and glow worms, and certain wire sparklers. Novelty fireworks are not regulated under the Act.

Except as provided in the Act, [MCL 28.457\(1\)](#) prohibits local units of government from enacting or enforcing 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.

[MCL 28.457\(2\)](#) allows local units of government to enact an ordinance regulating the ignition, discharge, and use of consumer fireworks; however, an ordinance enacted shall not regulate the use of consumer fireworks on the day before, the day of, or the day after a national holiday. National holidays, as defined in [5 U.S.C. 6103](#), are:

- New Year's Day, January 1.
- Birthday of Martin Luther King, Jr., the third Monday in January.
- Washington's Birthday, the third Monday in February.
- Memorial Day, the last Monday in May.
- Independence Day, July 4.
- Labor Day, the first Monday in September.
- Columbus Day, the second Monday in October.
- Veterans Day, November 11.
- Thanksgiving Day, the fourth Thursday in November.
- Christmas Day, December 25.

[MCL 28.458](#) imposes a Fireworks Safety Fee of six percent on sales of both consumer and low-impact fireworks. Failure to collect or remit the fee is a 90-day misdemeanor.

[MCL 28.462\(1\)](#) prohibits a person from igniting, discharging, or using consumer fireworks on public property, school property, church property, or another person's property without that organization's or person's express permission. A person who violates this subsection is responsible for a state civil infraction.

[MCL 28.462\(2\)](#) prohibits consumer fireworks from being sold to an individual less than 18 years of age. A person who violates this prohibition is responsible for a state civil infraction.

[MCL 28.462\(3\)](#) prohibits a person from using consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of both. Violation is a 30-day misdemeanor. If the violation causes damage to another person's property, violation is a 90-day misdemeanor. If the violation causes serious impairment of

another person's body function, violation is a 5-year felony. If the violation causes another person's death, violation is a 15-year felony.

[MCL 28.462\(4\)](#) prohibits smoking inside or within 50 feet of a Consumer Fireworks Retail Sales (CFRS) area. The CFRS area is the portion of a consumer fireworks retail sales facility or store, including the immediately adjacent aisles, where consumer fireworks are located for the purpose of retail displays and sale to the public. Violation is a 1-year misdemeanor.

[MCL 28.464\(2\)](#) allows a law enforcement agency to seize fireworks as evidence of a violation when the agency determines that a violation of the Act has occurred. However, law enforcement officers may not seize fireworks for a violation of [MCL 28.456\(2\)](#), selling low-impact fireworks without registering on the Low-Impact Fireworks Registry. Evidence seized under this subsection shall be stored pending disposition of any criminal or civil proceedings arising from a violation of the Act.

[MCL 28.465](#) requires fireworks seized for a violation of the Act be stored in compliance with the Act and the [rules](#) promulgated under the Act. Following final disposition of a conviction for violating the Act, the seizing agency in possession may dispose of or destroy any fireworks retained as evidence in that case.

There are several sections in the Act that require, under certain conditions, law enforcement agencies be reimbursed for the cost of storage and disposal of fireworks seized for a violation of the Act.

Law enforcement officers may verify [Consumer Fireworks Certificates](#), [Low-Impact Fireworks Registry](#) registrations, and obtain additional information regarding the Act on the BFS Web site, www.michigan.gov/bfs.

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