



FIRE MARSHAL BULLETIN

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Legal Fireworks in Michigan Without a Permit

DEPARTMENT OF STATE POLICE, Fire Marshal Division, 7150 Harris Drive, Lansing, MI 48913

This bulletin provides a list of fireworks that are allowed for sale and use without a permit. This information is intended to be used as a guide in the enforcement of the State Fireworks Law. Local ordinances may have additional requirements and restrictions applying to the sale, possession, and use of fireworks.

1931 PA 328, as amended, being MCL §§750.243a - 750.243e; MSA §§28.440(1) - 28.440(5), (the Act), provides for the sale, use, storage, transportation, and possession of fireworks.

“Fireworks” means a device made from explosive or flammable compositions used primarily for the purpose of producing a visible display or audible effect, or both, by combustion, deflagration, or detonation. This includes both class C and class B fireworks.

Michigan class C fireworks correspond with the classifications of “Consumer Fireworks,” “Explosives, Division 1.4G,” and “Fireworks UN0336.” Michigan’s class B fireworks correspond with the classifications of “Display Fireworks,” Explosives, Division 1.3G,” and “Fireworks UN0335.”

A permit is not required for the sale, use, or transportation of the following fireworks devices in Michigan:

A. **Paper Caps** MCL 750.243a(3)(a); MSA 28.440(1)

1. Flat Paper Caps. May not contain more than .25 of a grain of explosive content per cap. Packages must be labeled to indicate the maximum explosive content per cap.

B. **Toy Trick Noise Makers** MCL 750.243a(3)(b); MSA 28.440(1)

1. Party Poppers, Champagne Party Poppers, Whipper Snappers, Pop-It's, Fun Snaps, etc. A device that contains 15 milligrams or less of explosive composition. The device emits a small report.

C. **Sparklers** MCL 750.243a(3)(c); MSA 28.440(1)

1. Sparklers. A metal wire partially coated with pyrotechnic composition. The bottom third of the wire serves as a handle and is not coated. When lighted, a shower of sparks is emitted to a distance of about 6 inches from the device. The sparks may be various colors. A sparkler may not contain more than .0125 pounds (.2 ounces) of pyrotechnic composition. A #14 or less sparkler will normally contain .0125 pounds or less of pyrotechnic composition.

2. Flitter Sparklers. A narrow paper tube containing up to 100 grams of pyrotechnic composition which is attached to a thin wooden handle. The device produces a shower of sparks upon ignition.

D. **Fountains** MCL 750.243a(3)(d); MSA 28.440(1)

1. Cylinder Fountain. A cylindrical-shaped device. The cylindrical tube which actually contains the pyrotechnic composition may not have an inside diameter greater than 3/4 inch (19mm) and contain more than 75 grams of pyrotechnic composition. The device may be provided with a spike for insertion into the ground; a wood or plastic base for placing on the ground; or a wood or cardboard handle if intended to be hand held. Upon ignition, the device emits a shower of sparks and sometimes a whistle effect. The device may not emit an audible report or send a projectile into the air.
2. Cone Fountain. A cone-shaped device constructed of cardboard on heavy paper containing up to 50 grams of pyrotechnic composition. The device is limited to the same visual and audible effects as a cylinder fountain.

E. **Toy Snakes** MCL 750.243a(3)(e); MSA 28.440(1)

1. Snakes. A pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The device may not contain poisonous mercury. The device must be packaged in cardboard boxes, not more than 12 per box. The manufacturer's name and quantity per box must be printed on the box.

F. **Toy Smoke Devices** MCL 750.243a(3)(e); MSA 28.440(1)

1. Smoke Bombs, Smoke Pots, Smoke Grenades, Smoke Balls, etc. A tube or sphere containing a pyrotechnic composition that, upon ignition, produces white or colored smoke. The device must neither burst nor produce external flame (excluding the fuse and first fire upon ignition) during normal operation.

Pyrotechnic devices that do not fit the above descriptions would be illegal for sale, use, or transportation without a permit. This would include pyrotechnic devices which leave the ground or give an audible report.

The Michigan Attorney General issued an opinion that a pyrotechnic device that spins or twirls is a "wheel" and thus is neither a "cylindrical fountain" nor a "cone fountain" exempted by 1931 PA 328, as amended, being MCL 750.243a(3)(d); MSA 28.440(1). Therefore, the sale, offer for sale, use, or possession of such a pyrotechnic device is prohibited in the State of Michigan.

Several court cases challenging enforcement of the Michigan Fireworks Law have been upheld by the Michigan Court of Appeals and the Michigan Supreme Court.

Most importantly, The Michigan Court of Appeals has interpreted the Act as prohibiting all fireworks in Michigan, except those specifically permitted by §750.243a(3). *Stajos v City of Lansing*, 221 Mich App 223; 561 NW2d 116 (1996) lv den.

In other words, if it is not specifically permitted by the language of § 750.243a(3), it is not legal to possess, sell, or use in Michigan without a permit.

For specific information on these cases and to obtain case citations, please contact Spl/Sgt. Robert Mendham at (517) 322-5783 or via e-mail at mendhamr@state.mi.us.

PERMITS

The Act charges the council or commission of a city or village or the township board of a township with the responsibility of issuing permits for use, possession or storage of fireworks within their jurisdictions.

Permits cannot be issued to anyone under the age of 18 years, nor to a non-resident person or firm unless a resident member of the State Bar of Michigan or a resident agent has been appointed as the legal representative.

Local officials must also evaluate and rule on the competency and qualifications of the proposed pyrotechnic operator before issuing a permit. The applicant must demonstrate financial responsibility in the form of a bond or insurance policy in an amount to be set by the local official.

The Act does not provide specific guidelines for evaluating applicants, but the Fire Marshal Division recommends that local officials refer to certain publications of the National Fire Protection Association (NFPA) for guidance. NFPA Pamphlet #1123, Code for Fireworks Display and NFPA Pamphlet #1124, Code for the Manufacture, Transportation, and Storage of Fireworks, both provide appropriate guidelines and procedures to be followed.

To obtain copies of these publications, contact your local fire department, or contact the National Fire Protection Association at (617) 770-3000. You may also obtain these publications by visiting the NFPA web site at www.nfpa.org.

Please be advised that recipients of any Fire Marshal Bulletin may treat the contents as a news release. Feel free to insert your department, association, or individual name where appropriate when contact is made with local news media or other sources of dissemination.

Fireworks Law Enforcement Guide

This card can be used as a handy reference for enforcement of the Michigan Fireworks Law (Michigan Penal Code, 1931 PA 328, as amended, MCL §§750.243a - 243e; MSA §§28.440(1) – 440(5)).

“Fireworks” means a device made from explosive or flammable compositions used primarily for the purpose of producing a visible display or audible effect, or both, by combustion, deflagration, or detonation.

It is illegal to sell, possess, transport, or use fireworks in Michigan without a permit. Exceptions are listed below.

LEGAL FIREWORKS (NO PERMIT REQUIRED)

- ❖ Flat paper caps
- ❖ Toy trick noise makers (party poppers, pop-its, fun snaps, toy pistols using flat paper caps, etc.)
- ❖ Sparklers
- ❖ Flitter Sparklers (a narrow paper tube attached to a thin wooden handle producing a shower of sparks)
- ❖ Fountains that are cone shaped or cylindrical shaped that emit a shower of sparks and sometimes a whistle effect
- ❖ Toy Snakes (a pressed pellet that produces a large snake-like ash upon burning)
- ❖ Toy Smoke Devices (smoke bombs, smoke pots, smoke grenades, smoke balls, etc. that produce white or colored smoke)
- ❖ Signal flares, blank cartridges or blank cartridge pistols, and railroad emergency signal devices
- ❖ The sale of fireworks provided they are to be shipped directly out of state. (This refers to commercial carriers subject to USDOT regulations only - dealers selling fireworks in Michigan using signed statements that the purchaser will transport the fireworks out of state is prohibited!)

Fireworks that do not fit the above exceptions are illegal for sale, use, or transportation without a permit. Violation is a misdemeanor (Cite MCL 750.243a).

Helpful Hint: If it makes a loud bang or leaves The ground, it is illegal.

STORAGE OF SEIZED FIREWORKS

Fireworks that are seized as contraband are hazardous when stored incorrectly. The U.S. Department of Transportation classification label, found on each properly manufactured device, must be used to determine safe storage. Before disposing of any fireworks seized for evidence, contact your local prosecutor to determine what devices, if any, should be retained for prosecution.

The storage of fireworks at the site of a wholesaler, dealer, or jobber has very specific requirements. If you encounter what appears to be unsafe storage of fireworks, consult MCL 750.243d to determine the specific requirements.

ILLEGAL FIREWORKS IN MICHIGAN (EXAMPLES)

Cherry Bomb: Looks like a small red sphere approx. 1” in diameter.

Comet (or Mine): A cylinder containing a star and attached to a wooden base. Upon ignition the star is thrust 50-100 feet in the air and continues to glow as it slowly falls to the ground.

Firecracker: A little noise making cylinder up to 1.5” in length, often strung together by fuse.

M-80: Up to 2” in length, the M-80 is Usually a red cylinder with a fuse Coming out the side.

Bottle Rockets: A cylinder, frequently topped by a cone to stabilize its flight, attached to a long stick.

Roman Candles: A 6-12” tube containing alternating layers of compacted black powder that shoot single stars out of the top when lighted.

Silver Salute (M-100): A silver cylinder with a fuse coming out of the side containing large quantities of flash powder.

M-250 and M-1000 (quarter-stick): They look like larger versions of the M-80 and M-100 and have extremely high risk factors for crippling and Disfiguring injuries.

Torch: A 6-12” tube filled with color composition and ending in a handle. When ignited, streams of colors come out of the top of the tube.

A firework that spins or twirls is a “wheel” and thus is neither a “cylindrical fountain” nor a “cone fountain”. The sale, offer for sale, use, or possession of these “wheel” type devices is prohibited in Michigan.

Further questions about fireworks may be directed to the Fire Marshal Division at (517) 322-1924.