

STATE OF NEW YORK

8644

IN ASSEMBLY

January 10, 2022

Introduced by M. of A. FAHY -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to enacting the "dark skies protection act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The environmental conservation law is amended by adding a new article 18 to read as follows:

ARTICLE 18

LIGHT POLLUTION CONTROL

Title 1. Short title; declaration of purpose; general definitions.

2. Light fixtures.

3. Exemptions.

4. Preemption.

5. Department responsibility.

TITLE 1

SHORT TITLE; DECLARATION OF PURPOSE; GENERAL DEFINITIONS

Section 18-0101. Short title.

18-0102. Declaration of purpose.

18-0103. General definitions.

§ 18-0101. Short title.

This act shall be known and may be cited as the "dark skies protection act".

§ 18-0102. Declaration of purpose.

The purpose of this article shall be to regulate outdoor night lighting to preserve and enhance the state's dark sky while promoting safety for people, birds, and other wildlife, conserving energy, reducing our carbon footprint, and preserving the aesthetic qualities of the night sky.

§ 18-0103. General definitions.

For the purposes of this article, the following terms shall have the following meanings:

1. "Outdoor lighting fixture" means an outdoor artificial illuminating device, whether permanent or portable, used for illumination or adver-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 tisement, including but not limited to searchlights, spotlights, and
2 floodlights, whether for architectural lighting, parking lot lighting,
3 landscape lighting, billboards or street lighting.

4 2. "Shielded" means a fixture that is shielded in such a manner that
5 light rays emitted by the fixture, either directly from the lamp or
6 indirectly from the fixture, are projected below a horizontal plane
7 running through the lowest point on the fixture where light is emitted.

8 3. "Municipality" shall mean a county, city, town, or village.

9 TITLE 2

10 LIGHT FIXTURES

11 Section 18-0201. Shielding of outdoor light fixtures.

12 18-0202. Nonconforming light fixtures.

13 18-0203. Outdoor recreational facilities.

14 § 18-0201. Shielding of outdoor light fixtures.

15 Beginning January first, two thousand twenty-five, all outdoor light-
16 ing fixtures shall be shielded, including but not limited to outdoor
17 lighting fixtures installed at residential, commercial, industrial, and
18 municipal buildings and structures.

19 § 18-0202. Nonconforming light fixtures.

20 1. (a) In addition to the exemptions provided under title three of
21 this article, outdoor lighting fixtures not in compliance with the
22 provisions of this article shall be allowed, provided that such fixtures
23 are extinguished by an automatic or manual shutoff device between the
24 hours of eleven o'clock p.m. and sunrise, or are motion-activated lights
25 with a duration of less than fifteen minutes and equipped with an auto-
26 matic shutoff device.

27 (b) The department may, in its discretion, exempt certain lighting
28 fixtures from the requirements of this article if a shielded fixture is
29 not reasonably available.

30 § 18-0203. Outdoor recreational facilities.

31 No outdoor recreational facility, whether public or private, shall be
32 illuminated between the hours of eleven o'clock p.m. and five o'clock
33 a.m. except for a national or international tournament or to conclude
34 any recreational or sporting event or other activity that is in progress
35 prior to eleven o'clock p.m. at a ballpark or field, outdoor amphitheat-
36 er, arena, or similar facility.

37 TITLE 3

38 EXEMPTIONS

39 Section 18-0301. Exemptions.

40 § 18-0301. Exemptions.

41 1. The following shall be exempt from the requirements of this arti-
42 cle:

43 (a) Outdoor lighting fixtures on advertisement signs on interstate and
44 federal primary highways;

45 (b) Navigational lighting systems at airports and other lighting
46 necessary for aircraft safety pursuant to the requirements of the Feder-
47 al Aviation Authority, including but not limited to lighting placed on
48 communication towers or wind turbines;

49 (c) Outdoor lighting fixtures that are necessary for worker safety,
50 including but not limited to lights at agricultural facilities, indus-
51 trial, manufacturing, or commercial sites;

52 (d) Emergency lighting that is used by police, firefighters, correc-
53 tional personnel, or medical personnel and that is in operation during
54 such emergency;

55 (e) Outdoor lighting regulated pursuant to federal law, rule, or regu-
56 lation that preempts state law;

(f) Lighting intended for tunnels and roadway underpasses;
(g) Outdoor lighting used for programs, projects, or improvements of a city or town relating to the construction, reconstruction, improvement, or maintenance of a street or highway;
(h) Outdoor lighting used for construction or major renovation of municipal buildings, structures, and facilities of a city or town;
(i) Streetlight fixtures if the shielding otherwise required by this article is not available from the manufacturer; and
(j) Incandescent fixtures of one hundred fifty watts or less and other sources of less than seventy watts, including but not limited to seasonal and decorative lighting.

TITLE 4 PREEMPTION

Section 18-0401. Preemption.

§ 18-0401. Preemption.

The provisions of this article shall be cumulative and supplemental and shall not apply within any municipality that, by ordinance or resolution, has adopted provisions restricting light pollution that are equal to or more stringent than the provisions of this article.

TITLE 5 DEPARTMENT RESPONSIBILITY

Section 18-0501. Department responsibility.

§ 18-0501. Department responsibility.

1. The department shall develop educational materials to encourage the reduction of light pollution and shall make such materials available to the public.

2. The department shall provide information regarding compliance with the requirements of this article, including examples of conforming light fixtures, allowable nonconforming fixtures, and the provided exemptions under title three of this article and shall make such materials available to the public.

§ 2. Article 71 of the environmental conservation law is amended by adding a new title 45 to read as follows:

TITLE 45 ENFORCEMENT OF ARTICLE 18

Section 71-4501. Applicability of this title.

71-4502. Civil sanctions.

71-4503. Enforcement of article eighteen of this chapter.

§ 71-4501. Applicability of this title.

In addition to the provisions of sections 71-0101, 71-0301, and title five of this article the provisions of this title shall be applicable to the enforcement of article eighteen of this chapter.

§ 71-4502. Civil sanctions.

1. Any person who owns a one to four-family dwelling and violates any of the provisions of, or who fails to perform any duty imposed by article eighteen of this chapter, or any rule or regulation promulgated pursuant to such article, shall be liable in the case of a first violation, for a civil penalty not to exceed one hundred dollars for each such violation. In the case of a second and any continuing or further violation, such liability shall be for a civil penalty not to exceed two hundred fifty dollars for each such violation.

2. Any person who owns a property other than a one to four-family dwelling and who violates any provision of, or who fails to perform any duty imposed by, article eighteen of this chapter, or any rule or regulation promulgated pursuant to such article, shall be liable in the case of a first violation, for a civil penalty not to exceed five hundred

1 dollars for each such violation. In the case of a second and any contin-
2 uing or further violation, such liability shall be for a civil penalty
3 not to exceed one thousand dollars for each such violation.
4 § 71-4503. Enforcement of article eighteen of this chapter.

5 In the exercise of any of the powers and duties conferred by law, a
6 governing body of a municipality of the state may enforce the provisions
7 of article eighteen of this chapter. For the purposes of this section,
8 the term "governing body" shall mean the board of supervisors of a coun-
9 ty, the town board of a town, the common council of a city, or the board
10 of trustees of a village.

11 § 3. This act shall take effect January 1, 2025. Effective immediate-
12 ly, the addition, amendment and/or repeal of any rule or regulation
13 necessary for the implementation of this act on its effective date are
14 authorized to be made and completed on or before such effective date.