STATE OF NEW YORK

724

2017-2018 Regular Sessions

IN SENATE

January 4, 2017

Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to authorizing the sale and possession of sparkling devices outside of cities with a population of one million or more

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

Section 1. Subparagraph (iv) of paragraph (c) of subdivision 1 and subparagraph (v) of paragraph (b) of subdivision 3 of section 270.00 of the penal law, as added by chapter 477 of the laws of 2014, are amended to read as follows:

(iv) except in cities with a population of one million or more, [~~in those counties and cities that opt by local law pursuant to paragraph (b) of subdivision five of section 405.00 of this chapter,~~] "fireworks" and "dangerous fireworks" shall not be deemed to include "sparkling devices" as defined in subparagraph (vi) of paragraph (a) of this subdivision.

(v) except in cities with a population of one million or more, possession of sparkling devices lawfully obtained in [~~a jurisdiction that did opt by local law pursuant to paragraph (b) of subdivision five of section 405.00 of this chapter to exclude "sparkling devices" from the definitions of "fireworks" and "dangerous fireworks", for the purpose of lawful use in another jurisdiction that did opt by local law pursuant to paragraph (b) of subdivision five of section 405.00 of this chapter to exclude "sparkling devices" from the definitions of "fireworks" and "dangerous fireworks". The superintendent of state police shall annually publish a list of those jurisdictions that have opted by local law pursuant to paragraph (b) of subdivision five of section 405.00 of this chapter to exclude "sparkling devices" from the definitions of "fireworks" and "dangerous fireworks"~~] **another jurisdiction within the state**.

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

LBD00926-02-7

§ 2. Paragraph (b) of subdivision 5 of section 405.00 of the penal law, as amended by chapter 458 of the laws of 2016, is amended to read as follows:

(b) [~~Further, no city or county shall be bound to include "sparkling device" in the definitions of "fireworks" and "dangerous fireworks" in section 270.00 of this chapter, if such city or county shall so authorize the exemption of "sparkling device" by law. If any such city or county so elects, it~~] A city or county and such other local jurisdictions that lie within its geographical boundaries shall not enact any [~~other~~] local law that is inconsistent with the provisions of subparagraph (iv) of paragraph (c) of subdivision one of section 270.00 of this chapter, nor [~~to~~] regulate sparkling devices in a manner that is in conflict with the provisions of NFPA 1124, 2006 edition.

§ 3. Notwithstanding the provisions of sections one and two of this act, any county, that did not previously opt by local law pursuant to section 405.00 of the penal law to exclude "sparkling devices" from the definitions of "fireworks" and "dangerous fireworks" and did not register such with the secretary of state prior to the effective date of this act, may elect to exempt itself from the provisions of such sections, if acting by and through its governing body, it enacts a local law establishing such exemption and filing such local law with the secretary of state within ninety days of the effective date of this act.

§ 4. This act shall take effect immediately.