

STATE OF NEW YORK

2290--A

2017-2018 Regular Sessions

IN ASSEMBLY

January 17, 2017

Introduced by M. of A. MORELLE, LUPARDO -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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; and repealing paragraph (c) of subdivision 5 of section 405.00 of the penal law relating thereto

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~~

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

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~~405.00 of this chapter to exclude "sparkling devices" from the definitions of "fireworks" and "dangerous fireworks"]~~ another jurisdiction.

§ 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 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.]~~ Notwithstanding any inconsistent provision of law, a county or city may enact a local law to prohibit the sale and use of sparkling devices, as such term is defined in section 270.00 of this chapter, provided, however, any such local law shall not establish:

(i) an offense greater than a violation for a person who shall use, explode or cause to be exploded a sparkling device; or

(ii) an offense greater than a class B misdemeanor for a person who shall offer or expose for sale, sell or furnish a sparkling device valued at less than five hundred dollars unless such offer, sale or furnishing is to a person less than eighteen years of age.

§ 3. Paragraph (c) of subdivision 5 of section 405.00 of the penal law is REPEALED.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law.