

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:

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

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

11 (v) except in cities with a population of one million or more,
12 possession of sparkling devices lawfully obtained in [~~a jurisdiction~~
13 ~~that did opt by local law pursuant to paragraph (b) of subdivision five~~
14 ~~of section 405.00 of this chapter to exclude "sparkling devices" from~~
15 ~~the definitions of "fireworks" and "dangerous fireworks", for the~~
16 ~~purpose of lawful use in another jurisdiction that did opt by local law~~
17 ~~pursuant to paragraph (b) of subdivision five of section 405.00 of this~~
18 ~~chapter to exclude "sparkling devices" from the definitions of "fire-~~
19 ~~works" and "dangerous fireworks". The superintendent of state police~~
20 ~~shall annually publish a list of those jurisdictions that have opted by~~
21 ~~local law pursuant to paragraph (b) of subdivision five of section~~
22 ~~405.00 of this chapter to exclude "sparkling devices" from the defi-~~
23 ~~nitions of "fireworks" and "dangerous fireworks"]~~ another jurisdiction
24 within the state.

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

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

4 (b) [~~Further, no city or county shall be bound to include "sparkling~~
5 ~~device" in the definitions of "fireworks" and "dangerous fireworks" in~~
6 ~~section 270.00 of this chapter, if such city or county shall so author-~~
7 ~~ize the exemption of "sparkling device" by law. If any such city or~~
8 ~~county so elects, it]~~ A city or county and such other local jurisdic-
9 tions that lie within its geographical boundaries shall not enact any
10 [~~other~~] local law that is inconsistent with the provisions of subpara-
11 graph (iv) of paragraph (c) of subdivision one of section 270.00 of this
12 chapter, nor [~~to~~] regulate sparkling devices in a manner that is in
13 conflict with the provisions of NFPA 1124, 2006 edition.

14 § 3. Notwithstanding the provisions of sections one and two of this
15 act, any county, that did not previously opt by local law pursuant to
16 section 405.00 of the penal law to exclude "sparkling devices" from the
17 definitions of "fireworks" and "dangerous fireworks" and did not regis-
18 ter such with the secretary of state prior to the effective date of this
19 act, may elect to exempt itself from the provisions of such sections, if
20 acting by and through its governing body, it enacts a local law estab-
21 lishing such exemption and filing such local law with the secretary of
22 state within ninety days of the effective date of this act.

23 § 4. This act shall take effect immediately.