STATE OF NEW YORK

7663

IN SENATE

January 5, 2022

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed 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. Short title. This act shall be known and may be cited as the "dark skies protection act".

§ 2. 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. Lighting 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 is 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 and 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 mean:

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

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1. "Outdoor lighting fixture" means an outdoor artificial illuminating device, whether permanent or portable, used for illumination or advertisement, including but not limited to searchlights, spotlights, and floodlights, whether for architectural lighting, parking lot lighting, landscape lighting, billboards or street lighting.

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

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

4. "Governing board" includes the board of supervisors of a county, the town board of a town, the common council of a city, and the board of trustees of a village.

TITLE 2
LIGHTING FIXTURES

Section 18-0201. Shielding of outdoor lighting fixtures.
18-0202. Nonconforming lighting fixtures.
18-0203. Outdoor recreational facilities.

§ 18-0201. Shielding of outdoor lighting fixtures.

All outdoor lighting fixtures shall be shielded after January first, two thousand twenty-five, including but not limited to outdoor lighting fixtures installed at residential, commercial, industrial, and municipal buildings and structures.

§ 18-0202. Nonconforming lighting fixtures.

1. In addition to other exemptions provided in this article, outdoor lighting fixtures not in compliance with the provisions of this article shall be allowed, provided that such fixtures are extinguished by an automatic or manual shutoff device between the hours of eleven p.m. and sunrise or are motion-activated lights with a duration of less than fifteen minutes and equipped with an automatic shutoff device.

2. The department may, in its discretion, exempt certain lighting fixtures from the requirements of this article if a shielded fixture is not reasonably available.

§ 18-0203. Outdoor recreational facilities.

No outdoor recreational facility, whether public or private, shall be illuminated between the hours of eleven p.m. and five a.m. except for a national or international tournament or to conclude any recreational or sporting event or other activity that is in progress prior to eleven p.m. at a ballpark or field, outdoor amphitheater, arena, or similar facility.

TITLE 3
EXEMPTIONS

Section 18-0301. Exemptions.

§ 18-0301. Exemptions.

The following are exempt from the requirements of this article:

1. Outdoor lighting fixtures on advertisement signs on interstates and federal primary highways;

2. Navigational lighting systems at airports and other lighting necessary for aircraft safety pursuant to the requirements of the Federal Aviation Authority, including but not limited to lighting placed on communication towers or wind turbines;

3. Outdoor lighting fixtures that are necessary for worker safety, including but not limited to lights at agricultural facilities, industrial, manufacturing, or commercial sites;

4. Emergency lighting that is used by police, firefighters, correctional personnel, or medical personnel and that is in operation as long as the emergency exists;

5. Outdoor lighting regulated pursuant to federal law, rule, or regulation that preempts state law;

6. Lighting intended for tunnels and roadway underpasses;

7. 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;

8. Outdoor lighting used for construction or major renovation of municipal buildings, structures, and facilities of a city or town;

9. Streetlight fixtures if the shielding is not available from the manufacturer; and

10. 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 are 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 those materials available to the public.

2. The department shall provide information regarding complying with the requirements of this article, including examples of conforming lighting fixtures, allowable nonconforming lighting fixtures, and the provided exemptions and shall make those materials available to the public.

§ 3. 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 sanction.

71-4503. Enforcement of article 18 of this chapter.

§ 71-4501. Applicability of this title.

In addition to the provisions of sections 71-0101, 71-0301 and title 5 of this article the provisions of this title shall be applicable to the enforcement of article 18 of this chapter.

§ 71-4502. Civil sanction.

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 18 of this chapter, or any rule or regulation promulgated pursuant thereto, 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, the 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 of the provisions of, or who fails to perform any duty imposed by article 18 of this chapter, or any rule or regulation promulgated pursuant thereto, shall be liable in the case of a first violation, for a civil penalty not to exceed five hundred dollars for each such violation. In the case of a second and any continuing or further violation, the liability shall be for a civil penalty not to exceed one thousand dollars for each such violation.

§ 71-4503. Enforcement of article 18 of this chapter.

In the exercise of any of the powers and duties conferred by law, a governing body of a municipality of the state may enforce the provisions of article 18 of this chapter.

§ 4. This act shall take effect January 1, 2025. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.