

STATE OF NEW YORK

8644--A

IN ASSEMBLY

January 10, 2022

Introduced by M. of A. FAHY, STECK, SEAWRIGHT, BURDICK, THIELE, SIMON, GOTTFRIED, JACOBSON, GLICK, PAULIN, NIOU -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "dark skies protection act".

3 § 2. The environmental conservation law is amended by adding a new
4 article 18 to read as follows:

ARTICLE 18

LIGHT POLLUTION CONTROL

7 Title 1. Short title, declaration of purpose, general definitions.

8 2. Lighting fixtures.

9 3. Exemptions.

10 4. Preemption.

11 5. Department responsibility.

TITLE 1

SHORT TITLE, DECLARATION OF PURPOSE, GENERAL DEFINITIONS

14 Section 18-0101. Short title.

15 18-0102. Declaration of purpose.

16 18-0103. General definitions.

17 § 18-0101. Short title.

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

20 § 18-0102. Declaration of purpose.

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

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

LBD13810-02-2

1 § 18-0103. General definitions.

2 For the purposes of this article, the following terms shall mean:

3 1. "Outdoor lighting fixture" means an outdoor artificial illuminating
4 device, whether permanent or portable, used for illumination or adver-
5 tisement, including but not limited to searchlights, spotlights, and
6 floodlights, whether for architectural lighting, parking lot lighting,
7 landscape lighting, billboards or street lighting.

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

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

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

16 TITLE 2

17 LIGHTING FIXTURES

18 Section 18-0201. Shielding of outdoor lighting fixtures.

19 18-0202. Nonconforming lighting fixtures.

20 18-0203. Outdoor recreational facilities.

21 § 18-0201. Shielding of outdoor lighting fixtures.

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

26 § 18-0202. Nonconforming lighting fixtures.

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

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

36 § 18-0203. Outdoor recreational facilities.

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

43 TITLE 3

44 EXEMPTIONS

45 Section 18-0301. Exemptions.

46 § 18-0301. Exemptions.

47 The following are exempt from the requirements of this article:

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

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

54 3. Outdoor lighting fixtures that are necessary for worker safety,
55 including but not limited to lights at agricultural facilities, indus-
56 trial, 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.

1 2. Any person who owns a property other than a one to four family
2 dwelling and who violates any of the provisions of, or who fails to
3 perform any duty imposed by article 18 of this chapter, or any rule or
4 regulation promulgated pursuant thereto, shall be liable in the case of
5 a first violation, for a civil penalty not to exceed five hundred
6 dollars for each such violation. In the case of a second and any contin-
7 uing or further violation, the liability shall be for a civil penalty
8 not to exceed one thousand dollars for each such violation.

9 § 71-4503. Enforcement of article 18 of this chapter.

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

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