

STATE OF NEW YORK

5632--A

2023-2024 Regular Sessions

IN ASSEMBLY

March 20, 2023

Introduced by M. of A. FAHY, STECK, SEAWRIGHT, SIMON, BURDICK, THIELE, JACOBSON, GLICK, PAULIN, WOERNER, GUNTHER, GALLAGHER -- 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 protection
19 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

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

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1 people, birds, and other wildlife, conserving energy and reducing our
2 carbon footprint, and preserving the aesthetic qualities of the night
3 sky.

4 § 18-0103. General definitions.

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

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

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

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

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

19 TITLE 2

20 LIGHTING FIXTURES

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

22 18-0202. Nonconforming lighting fixtures.

23 18-0203. Outdoor recreational facilities.

24 § 18-0201. Shielding of outdoor lighting fixtures.

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

29 § 18-0202. Nonconforming lighting fixtures.

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

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

39 § 18-0203. Outdoor recreational facilities.

40 No outdoor recreational facility, amphitheater, arena, or similar
41 facility whether public or private, shall be illuminated between the
42 hours of eleven p.m. and five a.m. except for a recreational or sporting
43 event or other activity that is in progress prior to eleven p.m. at an
44 outdoor recreational facility, amphitheater, arena, or similar facility.

45 TITLE 3

46 EXEMPTIONS

47 Section 18-0301. Exemptions.

48 § 18-0301. Exemptions.

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

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

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

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

4 4. Emergency lighting that is used by police, firefighters, correc-
5 tional personnel, or medical personnel and that is in operation as long
6 as the emergency exists;

7 5. Outdoor lighting regulated pursuant to federal law, rule, or regu-
8 lation that preempts state law;

9 6. Lighting intended for tunnels and roadway underpasses;

10 7. Outdoor lighting used for programs, projects, or improvements of a
11 city or town relating to the construction, reconstruction, improvement,
12 or maintenance of a street or highway;

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

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

17 10. Incandescent fixtures of one hundred fifty watts or less and other
18 sources of less than seventy watts, including but not limited to
19 seasonal and decorative lighting.

20 11. Lighting fixtures located in the geographically limited area
21 defined by section 81-70 of article VIII of the New York City Zoning
22 Resolution, provided that the department may:

23 (a) require conditions for such exemption if strategies or technolo-
24 gies to control excess light are reasonably available; and

25 (b) exempt all lighting fixtures within such geographically limited
26 area upon application of an entity representing property owners, resi-
27 dents or businesses.

28 12. Lighting fixtures that are culturally or historically significant,
29 as determined by the department, provided that:

30 (a) such exemption shall be granted upon application from a property
31 owner, or an entity representing property owners, residents or busi-
32 nesses within a geographically limited area; and

33 (b) the department may require conditions for an exemption under this
34 subdivision to ensure that the exemption does not result in greater
35 light pollution than occurred on the effective date of this article.

36 TITLE 4

37 PREEMPTION

38 Section 18-0401. Preemption.

39 § 18-0401. Preemption.

40 The provisions of this article are cumulative and supplemental and
41 shall not apply within any municipality that, by local law, ordinance or
42 resolution, has adopted provisions restricting light pollution that are
43 equal to or more stringent than the provisions of this article.

44 TITLE 5

45 DEPARTMENT RESPONSIBILITY

46 Section 18-0501. Department responsibility.

47 § 18-0501. Department responsibility.

48 1. The department shall develop educational materials to encourage the
49 reduction of light pollution and shall make those materials available on
50 its website.

51 2. The department shall provide information regarding complying with
52 the requirements of this article, including examples of conforming
53 lighting fixtures, allowable nonconforming lighting fixtures, and the
54 provided exemptions and shall make those materials available on its
55 website.

1 § 3. This act shall take effect January 1, 2026. Effective immediate-
2 ly, the addition, amendment and/or repeal of any rule or regulation
3 necessary for the implementation of this act on its effective date are
4 authorized to be made and completed on or before such effective date.