

LOCAL LAW NO. "H" FOR 2020

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK, REPEALING LOCAL LAW 1 FOR 2016 AND PROHIBITING THE USE AND SALE OF SPARKLING DEVICES

Introduced: 7/13/20

By Messrs. Peter, R. Joyce, Ward, A. Joyce and Ricard:

BE IT ENACTED by the Albany County Legislature as follows:

SECTION 1. Repeal of Local Law 1 for 2016

Local Law 1 for 2016, "A Local Law of the County of Albany, New York, Allowing for Common, Safe Items to be Excluded from the Dangerous Fireworks Definition as Permitted by New York State Penal Law Section 405 (b)" is hereby repealed upon the effective date of this law.

SECTION 2. Legislative Intent

The New York State Legislature approved, and the Governor of New York signed into law, Chapter 477 of the Laws of 2014 that amended the New York State Penal Law, the Executive Law and the General Business Law placing further restrictions on dangerous fireworks while at the same time recognizing that certain fireworks should not be labeled dangerous.

The Governor signed this bill into law in part due to New York's strong home rule authority, only allowing for certain fireworks to be sold and used in municipalities that affirmatively enact a Local Law authorizing such action.

Thereafter, Chapter 371 of the Laws of 2017 amended the previous grant of home rule authority, and legalized the sale and use of sparkling devices throughout the state, outside of New York City. This amendment did not require County's to opt-in, instead it allowed them to opt-out.

Since the passage of Law 1 for 2016, which legalized sparkling devices in Albany County, significant problems have arisen due to members of the public engaging in the practice of lighting off fireworks at all hours of the night. The scope and use of sparking devices anticipated in 2016 when Albany County opted-in has grown into something entirely different. These devices are far more powerful than originally envisioned. This has significantly affected the quality of life and safety of the residents of the County. While this Legislature cannot stop the conduct of all those using sparking devices irresponsibly, it can do its part to limit their ability to obtain these tools of nuisance.

Therefore, the purpose of this Local Law is to prohibit the previously believed to be safe sparkling devices from being sold or used in Albany County.

Section 3. Definitions

“Sparkling Devices” are defined in Section 270.00 of the New York Penal Law.

Section 4. Prohibitions

The sale and use of sparkling devices is hereby prohibited within the County of Albany.

Section 5. Penalties

- (i) Any person who shall use or explode a sparkling device, or cause an exploding device to be exploded, shall be guilty of a violation punishable by a fine not to exceed \$500;
- (ii) Any person who offers a sparkling device for sale, or sells or furnishes a sparkling device to another person or persons, shall be guilty of a Class B misdemeanor, punishable by a fine of \$1,000 and fifteen (15) days in jail.

Section 6. Applicability

This law shall apply to all actions occurring on or after the effective date of this law.

Section 7. Severability

If any part of or provisions of this law, or the application thereof to any person or circumstance, shall be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of or provision of, or application directly involved in the controversy in which such the remainder of this law, or the application thereof to other persons or circumstances.

Section 8. State Environmental Quality Review Act Compliance

This County Legislature determines that the adoption of this Local Law constitutes a “Type II action” as said term is defined in the State Environmental Quality Review Act (“SEQRA”), and that no further action with respect to same is required under SEQRA.

Section 9. Effective Date

This law shall take effect January 3, 2021.

Referred to Audit and Finance and Law Committees – 7/13/20