

37-0511. RULES AND REGULATIONS.

S 37-0501. SHORT TITLE.

THIS TITLE SHALL BE KNOWN AND MAY BE CITED AS THE "BISPHENOL A-FREE CHILDREN AND BABIES ACT".

S 37-0503. DEFINITIONS.

AS USED IN THIS TITLE:

"CHILD CARE PRODUCT" MEANS ALL PACIFIERS AND UNFILLED BEVERAGE CONTAINERS TO BE USED BY CHILDREN UNDER THREE YEARS OLD FOR THE CONSUMPTION OF LIQUIDS INCLUDING PACIFIERS, BABY BOTTLES, BABY BOTTLE LINERS AND CUPS, CUP LIDS, STRAWS AND SIPPY CUPS.

S 37-0505. CHILD CARE PRODUCTS.

1. BEGINNING DECEMBER FIRST, TWO THOUSAND TEN, NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR CORPORATION SHALL SELL OR OFFER FOR SALE ANY CHILD CARE PRODUCT INTENDED FOR USE BY A CHILD THREE YEARS OF AGE OR YOUNGER CONTAINING BISPHENOL A.

2. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE SALE OR DISTRIBUTION OF CHILD CARE PRODUCTS RESOLD OR OFFERED FOR RESALE, OR DISTRIBUTED BY CONSUMERS FOR CONSUMER USE.

S 37-0507. PRODUCT LABELING.

THE COMMISSIONER SHALL AUTHORIZE PRODUCT LABELING OF PRODUCTS THAT DO NOT CONTAIN BISPHENOL A. THE LABEL ON SUCH PRODUCTS MAY PROMINENTLY STATE "BISPHENOL A FREE" OR "BPA-FREE" TO INFORM CONSUMERS THAT THE PRODUCT DOES NOT CONTAIN THE CHEMICAL BISPHENOL A.

S 37-0509. PREEMPTION.

JURISDICTION IN ALL MATTERS PERTAINING TO BISPHENOL A WHICH ARE REGULATED PURSUANT TO THE PROVISIONS OF THIS TITLE SHALL BE VESTED EXCLUSIVELY IN THE STATE. ANY PROVISION OF ANY LOCAL LAW OR ORDINANCE, OR ANY RULE OR REGULATION PROMULGATED PURSUANT THERETO, RELATING TO BISPHENOL A SHALL BE PREEMPTED.

S 37-0511. RULES AND REGULATIONS.

THE DEPARTMENT IS AUTHORIZED TO PROMULGATE SUCH RULES AND REGULATIONS AS IT SHALL DEEM NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS TITLE.

S 3. Section 71-3703 of the environmental conservation law, as amended by chapter 671 of the laws of 1986, is amended to read as follows:

S 71-3703. Enforcement of article 37.

1. Any person who violates any of the provisions of, or who fails to perform any duty imposed by section 37-0107 or any rule or regulation promulgated pursuant hereto, shall be liable for a civil penalty not to exceed two thousand five hundred dollars for each such violation and an additional penalty of not more than five hundred dollars for each day during which such violation continues, and, in addition thereto, such person may be enjoined from continuing such violation.

2. ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF, OR WHO FAILS TO PERFORM ANY DUTY IMPOSED BY SECTION 37-0505 OR ANY RULE OR REGULATION PROMULGATED PURSUANT HERETO, SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH DAY DURING WHICH SUCH VIOLATION CONTINUES, AND IN ADDITION THERETO, SUCH PERSON MAY BE ENJOINED FROM CONTINUING SUCH VIOLATION. SUCH PERSON SHALL FOR A SECOND VIOLATION BE LIABLE TO THE PEOPLE OF THE STATE FOR A CIVIL PENALTY NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH DAY DURING WHICH SUCH VIOLATION CONTINUES.

S 4. This act shall take effect immediately.