

STATE OF NEW YORK

3852--C

Cal. No. 102

2025-2026 Regular Sessions

IN SENATE

January 30, 2025

Introduced by Sens. HINCHEY, BROUK, CLEARE, JACKSON, KAVANAGH, MAYER, SCARCELLA-SPANTON, SERRANO, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the environmental conservation law, in relation to the regulation of toxic substances in playground surfacing materials

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The environmental conservation law is amended by adding a
2 new section 37-0123 to read as follows:

3 § 37-0123. Regulation of toxic substances in playground surfacing mate-
4 rials.

5 1. As used in this section, the following terms shall have the follow-
6 ing meanings:

7 (a) "Playground surfacing materials" means products, materials, or
8 substances used or installed on the ground surface of a playground.

9 (b) "Playground" means an outdoor recreation area for children
10 equipped with one or more play structures.

11 (c) "Manufacturer" means a person: (i) that produces or whose brand
12 name under which playground surfacing materials are sold; or (ii) in the
13 case of playground surfacing materials that were imported into the

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

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1 United States, "manufacturer" means the importer or first domestic
2 distributor of such playground surfacing materials if no person who is a
3 manufacturer within the meaning of subparagraph (i) of this paragraph
4 has a presence in the United States.

5 (d) "PAHs" means polycyclic aromatic hydrocarbons.

6 (e) "Intentionally added" shall have the same meaning as "inten-
7 tionally added chemical" set forth in subdivision four of section
8 37-0121 of this title.

9 2. After December thirty-first, two thousand twenty-seven, no person
10 shall sell, or offer for sale, in this state any playground surfacing
11 material that contains PFAS, PAHs, or lead:

12 (a) that has been intentionally added; or

13 (b) at or above a level that the department shall establish by regu-
14 lation.

15 3. (a) No person that sells, or offers for sale, any playground
16 surfacing material shall be held in violation of this section if they
17 can show that they relied in good faith on the written assurance of the
18 manufacturer of such product that such product met the requirements of
19 this section. Such written assurance shall take the form of a certif-
20 icate of compliance stating that such product is in compliance with the
21 requirements of this section. The certificate of compliance shall be
22 signed by an authorized official of the manufacturer.

23 (b) In addition to any other applicable penalties, it shall be a
24 violation of this title to provide a certificate of compliance under
25 paragraph (a) of this subdivision when a product is in violation of the
26 requirements of this section.

27 § 2. Section 71-3703 of the environmental conservation law is amended
28 by adding a new subdivision 8 to read as follows:

29 8. Any person who violates any of the provisions of, or who fails to
30 perform any duty imposed by section 37-0123 of this chapter or any rule
31 or regulation promulgated pursuant thereto, shall be liable for a civil
32 penalty not to exceed one thousand dollars for each day during which
33 such violation continues, and in addition thereto, such person may be
34 enjoined from continuing such violation. Such person shall for a second
35 violation be liable to the people of the state for a civil penalty not
36 to exceed two thousand five hundred dollars for each day during which
37 such violation continues.

38 § 3. This act shall take effect on the one hundred eightieth day after
39 it shall have become a law.