S T A T E O F N E W Y O R K

3272

2009-2010 Regular Sessions

I N A S S E M B L Y

January 23, 2009

Introduced by M. of A. ENGLEBRIGHT, GOTTFRIED, COLTON, EDDINGTON, KOON -- Multi-Sponsored by -- M. of A. GALEF, JACOBS, McENENY -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the general business law, in relation to prohibiting the sale and distribution of mercury fever thermometers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new section 395-c to read as follows:

S 395-C. SALE OR DISTRIBUTION OF MERCURY THERMOMETERS; PROHIBITED. 1. FOR THE PURPOSES OF THIS SECTION, "MERCURY FEVER THERMOMETER" SHALL MEAN ANY THERMOMETER USED TO MEASURE HUMAN OR ANIMAL BODY TEMPERATURE, WHICH CONTAINS MERCURY OR A MERCURY COMPOUND. SUCH TERM SHALL NOT INCLUDE AN ELECTRONIC THERMOMETER WITH A BATTERY CONTAINING MERCURY.

2. NO PERSON SHALL SELL, OFFER TO SELL OR EXPOSE FOR SALE ANY MERCURY FEVER THERMOMETER.

3. THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION SHALL NOT APPLY TO THE SALE OR PROVISION OF A MERCURY FEVER THERMOMETER IN ACCORDANCE WITH A PRESCRIPTION BY:

(A) A HEALTH CARE PRACTITIONER LICENSED OR REGISTERED PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW, ACTING WITHIN THE LAWFUL SCOPE OF HIS OR HER PRACTICE, PURSUANT TO THE RULES AND REGULATIONS OF THE COMMISSIONER OF HEALTH; OR

(B) A VETERINARIAN PURSUANT TO THE RULES AND REGULATIONS OF THE COMMISSIONER OF AGRICULTURE AND MARKETS.

4. ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law, provided that any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be promulgated on or before such date.

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

LBD06249-01-9