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

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I N A S S E M B L Y

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Introduced by M. of A. COLTON, DelMONTE, SCHIMEL, STIRPE, CASTRO, TOBACCO -- Multi-Sponsored by -- M. of A. ALFANO, LUPARDO, TOWNS, WALKER, WEISENBERG -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law and the general business law, in relation to ecolabeling

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

Section 1. The environmental conservation law is amended by adding a new section 37-0113 to read as follows:

S 37-0113. ECOLABELING.

ECOLABELING AND THE FURTHER DEVELOPMENT OF ECOLABELING POLICY STANDARDS OF THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO) UNDER THE ISO 14000 ENVIRONMENTAL MANAGEMENT SERIES IS REQUIRED FOR THE FOLLOWING PRODUCTS, INCLUDING, BUT NOT LIMITED TO: ALTERNATIVE FUELED VEHICLES (GC-2); DEGREASING AGENTS IN PRODUCTION AND MAINTENANCE OPERATIONS (GS-34); COMMERCIAL AND INSTITUTIONAL CLEANING SERVICES (GS-42); COATED PRINTING PAPER (GS-10); COMMERCIAL ADHESIVES (GS-36); ELECTRIC CHILLERS (GS-31); ENERGY EFFICIENT LIGHTING - COMPACT FLUORESCENT LAMPS (GS-5); FLEET VEHICLE MAINTENANCE OPERATIONS (GC-10); FOOD SERVICE PACKAGING (GS-35); GENERAL-PURPOSE, BATHROOM, GLASS, AND CARPET CLEANERS USED FOR HOUSEHOLD PURPOSES (GS-8); INDUSTRIAL AND INSTITUTIONAL CLEANERS (GS-37); HAND CLEANERS AND HAND SOAPS USED FOR INDUSTRIAL AND INSTITUTIONAL HAND PURPOSES (GS-41); INDUSTRIAL AND INSTITUTIONAL FLOOR FINISHES AND FLOOR FINISH STRIPPERS (GS-40); LODGING PROPERTIES (GS-33); NEWSPRINT (GS-15); OCCUPANCY SENSORS (GC-12); PAINTS AND COATINGS (GS-11); PAPER PRODUCTS USED IN THE PREPARATION OF FOOD (GC-8); PAPER TOWELS AND PAPER NAPKINS (GS-9); POWDERED LAUNDRY BLEACH (GC-11); PRINTING AND WRITING PAPER (GS-7); RECYCLED CONTENT LATEX PAINT (GS-43); RE-REFINED ENGINE OIL (GS-3); REUSABLE UTILITY BAGS (GS-16); TISSUE PAPER (GS-1); WINDOWS (GS-13); AND WINDOW FILMS (GS-14).

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

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S 2. The environmental conservation law is amended by adding a new section 71-3705 to read as follows:

S 71-3705. ENFORCEMENT OF SECTION 37-0113.

1. ANY PERSON WHO VIOLATES ANY PROVISION OF OR FAILS TO PERFORM ANY DUTY IMPOSED BY SECTION 37-0113 OF THIS CHAPTER SHALL UPON THE FIRST FINDING OF SUCH A VIOLATION BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS FOR EACH VIOLATION. ANY PERSON CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED TWENTY-FIVE HUNDRED DOLLARS FOR EACH VIOLATION.

2. PENALTIES UNDER THIS SECTION SHALL BE ASSESSED BY THE COMMISSIONER AFTER A HEARING PURSUANT TO THE PROVISIONS OF SECTION 71-1709 OF THIS ARTICLE. IN ASSESSING THE PENALTY UNDER THIS SECTION, THE COMMISSIONER SHALL CONSIDER: THE NATURE AND EXTENT OF THE VIOLATION; THE NUMBER AND SEVERITY OF THE VIOLATIONS; THE ECONOMIC EFFECT OF THE PENALTY ON THE VIOLATOR; WHETHER THE VIOLATOR TOOK GOOD FAITH MEASURES TO COMPLY WITH THIS CHAPTER; THE WILLFULNESS OF THE VIOLATOR'S MISCONDUCT; THE DETERRENT EFFECT THAT THE IMPOSITION OF THE PENALTY WOULD HAVE ON BOTH THE VIOLATOR AND THE REGULATED COMMUNITY AS A WHOLE; AND OTHER FACTORS THAT THE COMMISSIONER DEEMS APPROPRIATE AND RELEVANT. ANY PERSON FOUND TO HAVE VIOLATED SECTION 37-0113 OF THIS CHAPTER MAY BE ENJOINED FROM CONTINUING SUCH VIOLATION.

3. ALL CIVIL PENALTIES AND FINES COLLECTED FOR ANY VIOLATION OF SECTION 37-0113 OF THIS CHAPTER SHALL BE PAID OVER TO THE COMMISSIONER FOR DEPOSIT IN THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED BY SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

4. A PERSON CHARGED WITH A VIOLATION OF THE PROVISIONS OF, OR FAILURE TO PERFORM A DUTY IMPOSED BY SECTION 37-0113 OF THIS CHAPTER SHALL BE PROVIDED WITH ALL SUPPORTING DOCUMENTATION RELATED TO THE ECOLABELING, INCLUDING, BUT NOT LIMITED TO, DOCUMENTATION OF THE PROCEDURES UTILIZED BY THE LABORATORY, COPIES OF ALL TEST RESULTS, EXEMPLARS OF THE PRODUCTS TESTED TO THE EXTENT PRACTICABLE, AND SUCH OTHER DOCUMENTATION AND EVIDENCE WHICH SHALL REASONABLY BE REQUIRED TO VERIFY THE ACCURACY OF ECOLABELING IN THE DEVELOPMENT OF ECOLABELING POLICY STANDARDS OF THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO) UNDER THE ISO 14000.

S 3. The general business law is amended by adding a new section 399-gg to read as follows:

S 399-GG. ECOLABELING. 1. NO PERSON, FIRM OR CORPORATION SHALL SELL OR OFFER FOR SALE ANY PRODUCT, AS DEFINED BY SECTION 37-0113 OF THE ENVIRONMENTAL CONSERVATION LAW, UNLESS THERE IS PRINTED ON THE PACKAGE IN WHICH SUCH PRODUCT IS SOLD OR OFFERED FOR SALE, AN ECOLABEL.

2. NO PERSON, FIRM OR CORPORATION SHALL ADVERTISE A PRODUCT, AS DEFINED BY SECTION 37-0113 OF THE ENVIRONMENTAL CONSERVATION LAW, AS BEING "GREEN", "ENVIRONMENTALLY FRIENDLY" OR ANY OTHER LABEL WHICH SUGGESTS THE PRODUCT IS GOOD FOR THE ENVIRONMENT.

3. ANY VIOLATION OF THIS SECTION SHALL BE PUNISHABLE BY A CIVIL PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that effective immediately, the commissioner of environmental conservation, in conjunction with the chairperson and executive director of the consumer protection board shall promulgate any addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date.