

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

4085--A

2011-2012 Regular Sessions

I N S E N A T E

March 17, 2011

Introduced by Sens. GRISANTI, AVELLA -- read twice and ordered printed,
and when printed to be committed to the Committee on Environmental
Conservation -- committee discharged, bill amended, ordered reprinted
as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to
prohibiting the sale of child products containing TRIS

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

1 Section 1. Article 37 of the environmental conservation law is amended
2 by adding a new title 7 to read as follows:
3 TITLE VII
4 TRIS
5 SECTION 37-0701. SHORT TITLE.
6 37-0703. DEFINITIONS.
7 37-0705. CHILD CARE PRODUCTS.
8 37-0707. PREEMPTION.
9 37-0709. RULES AND REGULATIONS.
10 S 37-0701. SHORT TITLE.
11 THIS TITLE SHALL BE KNOWN AND MAY BE CITED AS THE "TRIS-FREE CHILDREN
12 AND BABIES ACT".
13 S 37-0703. DEFINITIONS.
14 AS USED IN THIS TITLE:
15 1. "CHILD CARE PRODUCT" MEANS A CONSUMER PRODUCT INTENDED FOR USE BY
16 CHILDREN UNDER THREE YEARS OF AGE, SUCH AS BABY PRODUCTS, TOYS, CAR
17 SEATS, NURSING PILLOWS, CRIB MATTRESSES, AND STROLLERS.
18 2. "TRIS" SHALL INCLUDE TCEP (TRIS (2-CHLOROETHYL) PHOSPHATE).
19 S 37-0705. CHILD CARE PRODUCTS.
20 1. BEGINNING DECEMBER FIRST, TWO THOUSAND THIRTEEN, NO PERSON, FIRM,
21 PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR CORPORATION SHALL
22 SELL OR OFFER FOR SALE ANY CHILD CARE PRODUCT INTENDED FOR USE BY A
23 CHILD THREE YEARS OF AGE OR YOUNGER CONTAINING TRIS.

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

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

4 S 37-0707. PREEMPTION.

5 JURISDICTION IN ALL MATTERS PERTAINING TO TRIS WHICH ARE REGULATED
6 PURSUANT TO THE PROVISIONS OF THIS TITLE SHALL BE VESTED EXCLUSIVELY IN
7 THE STATE.

8 S 37-0709. RULES AND REGULATIONS.

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

11 S 2. Section 71-3703 of the environmental conservation law, as amended
12 by chapter 280 of the laws of 2010, is amended to read as follows:

13 S 71-3703. Enforcement of article 37.

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

21 2. Any person who violates any of the provisions of, or who fails to
22 perform any duty imposed by section 37-0505 or any rule or regulation
23 promulgated pursuant hereto, shall be liable for a civil penalty not to
24 exceed one thousand dollars for each day during which such violation
25 continues, and in addition thereto, such person may be enjoined from
26 continuing such violation. Such person shall for a second violation be
27 liable to the people of the state for a civil penalty not to exceed two
28 thousand five hundred dollars for each day during which such violation
29 continues.

30 3. ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF, OR WHO FAILS TO
31 PERFORM ANY DUTY IMPOSED BY SECTION 37-0705 OR ANY RULE OR REGULATION
32 PROMULGATED PURSUANT HERETO, SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO
33 EXCEED ONE THOUSAND DOLLARS FOR EACH DAY DURING WHICH SUCH VIOLATION
34 CONTINUES, AND IN ADDITION THERETO, SUCH PERSON MAY BE ENJOINED FROM
35 CONTINUING SUCH VIOLATION. SUCH PERSON SHALL FOR A SECOND VIOLATION BE
36 LIABLE TO THE PEOPLE OF THE STATE FOR A CIVIL PENALTY NOT TO EXCEED TWO
37 THOUSAND FIVE HUNDRED DOLLARS FOR EACH DAY DURING WHICH SUCH VIOLATION
38 CONTINUES.

39 S 3. This act shall take effect immediately.