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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Article 37 of the environmental conservation law is amended by adding a new title 7 to read as follows:

TITLE VII

TRIS

SECTION 37-0701. SHORT TITLE.

37-0703. DEFINITIONS.

37-0705. CHILD CARE PRODUCTS.

37-0707. PREEMPTION.

37-0709. RULES AND REGULATIONS.

S 37-0701. SHORT TITLE.

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

S 37-0703. DEFINITIONS.

AS USED IN THIS TITLE:

1. "CHILD CARE PRODUCT" MEANS A CONSUMER PRODUCT INTENDED FOR USE BY CHILDREN UNDER THREE YEARS OF AGE, SUCH AS BABY PRODUCTS, TOYS, CAR SEATS, NURSING PILLOWS, CRIB MATTRESSES, AND STROLLERS.

2. "TRIS" SHALL INCLUDE TCEP (TRIS (2-CHLOROETHYL) PHOSPHATE).

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.
S 37-0705. CHILD CARE PRODUCTS.
1. BEGINNING DECEMBER FIRST, TWO THOUSAND THIRTEEN, 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 TRIS.
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 37-0707. PREEMPTION.
JURISDICTION IN ALL MATTERS PERTAINING TO TRIS WHICH ARE REGULATED PURSUANT TO THE PROVISIONS OF THIS TITLE SHALL BE VESTED EXCLUSIVELY IN THE STATE.

S 37-0709. 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 2. Section 71-3703 of the environmental conservation law, as amended by chapter 280 of the laws of 2010, 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.
3. ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF, OR WHO FAILS TO PERFORM ANY DUTY IMPOSED BY SECTION 37-0705 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 3. This act shall take effect immediately.