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

April 27, 2012

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to prohibiting the sale or offer for sale of electric lamps that contain mercury in excess of specified amounts

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

Section 1. Section 27-2101 of the environmental conservation law is amended by adding five new subdivisions 30, 31, 32, 33 and 34 to read as follows:

30. "LIGHTING THAT CONTAINS MERCURY" MEANS AN ELECTRIC LAMP, INCLUDING COMPACT FLUORESCENT LAMPS, STRAIGHT FLUORESCENT LAMPS AND NONLINEAR FLUORESCENT LAMPS, TO WHICH MERCURY OR MERCURY COMPOUNDS ARE ADDED DURING THE MANUFACTURING PROCESS.

31. "LONG LIFETIME" MEANS 25,000 HOURS OR MORE WHEN TESTED ON AN ELECTRONIC BALLAST, INCLUDING T8 INSTANT START BALLASTS AND T5 PROGRAMMED START BALLASTS, AND TURNED OFF AND ON EVERY THREE HOURS.

32. "NORMAL LIFETIME" MEANS LESS THAN 25,000 HOURS WHEN TESTED ON AN ELECTRONIC BALLAST, INCLUDING T8 INSTANT START BALLASTS AND T5 PROGRAMMED START BALLASTS, AND TURNED OFF AND ON EVERY THREE HOURS.

33. (A) "PRODUCER OF LIGHTING THAT CONTAINS MERCURY" MEANS ANY PERSON THAT:

(I) MANUFACTURES AND SELLS LIGHTING THAT CONTAINS MERCURY UNDER ITS OWN BRAND;

(II) RESELLS UNDER ITS OWN BRAND LIGHTING THAT CONTAINS MERCURY PRODUCED BY OTHER SUPPLIERS;

(III) IMPORTS OR EXPORTS LIGHTING THAT CONTAINS MERCURY ON A PROFESSIONAL BASIS; OR

(IV) SERVES AS THE IMPORTER OR DOMESTIC DISTRIBUTOR OF LIGHTING THAT CONTAINS MERCURY IF THE BRAND NAME OWNER IS LOCATED OUTSIDE OF THE UNITED STATES.

(B) "PRODUCER OF LIGHTING THAT CONTAINS MERCURY" DOES NOT MEAN A RESELLER OF LIGHTING THAT CONTAINS MERCURY IF THE BRAND OF THE MANUFACTURER OF THE LIGHTING THAT CONTAINS MERCURY APPEARS ON THE LIGHTING.

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

LBD15328-02-2

34. "SPECIAL PURPOSE LIGHTING" MEANS APPLIANCE LIGHTING, BLACK LIGHTING, GERMICIDAL LIGHTING, BUG LIGHTING, COLORED LIGHTING, PLANT LIGHTING, STRAIGHT FLUORESCENT REFLECTOR LIGHTING, REPROGRAPHIC LIGHTING, SHATTER RESISTANT LIGHTING, COLD TEMPERATURE LIGHTING AND THREE-WAY LIGHTING.

S 2. Section 27-2107 of the environmental conservation law is amended by adding three new subdivisions 11, 12 and 13 to read as follows:

11. A PRODUCER OF LIGHTING THAT CONTAINS MERCURY MAY NOT SELL, OFFER FOR SALE OR DISTRIBUTE IN THIS STATE ANY ELECTRIC LAMPS THAT CONTAIN MERCURY IN AN AMOUNT EXCEEDING, PER LAMP, THE FOLLOWING MERCURY CONTENT STANDARDS:

(A) 4 MILLIGRAMS FOR SCREW-BASED COMPACT FLUORESCENT LAMPS LESS THAN 25 WATTS;

(B) 5 MILLIGRAMS FOR COMPACT FLUORESCENT LAMPS EQUAL TO OR MORE THAN 25 WATTS AND LESS THAN 40 WATTS;

(C) 3 MILLIGRAMS FOR STRAIGHT FLUORESCENT T5 LAMPS WITH A NORMAL LIFETIME;

(D) 4 MILLIGRAMS FOR STRAIGHT FLUORESCENT T8 LAMPS WITH A NORMAL LIFETIME;

(E) 5 MILLIGRAMS FOR STRAIGHT FLUORESCENT T5 AND T8 LAMPS WITH A LONG LIFETIME;

(F) 15 MILLIGRAMS FOR T12 8-FOOT STRAIGHT FLUORESCENT LAMPS.

12. THE MERCURY CONTENT STANDARD SPECIFIED IN SUBDIVISION ELEVEN OF THIS SECTION SHALL NOT APPLY TO 8-FOOT MODELS OF STRAIGHT FLUORESCENT T8 LAMPS.

13. THE MERCURY CONTENT STANDARDS SPECIFIED IN SUBDIVISION ELEVEN OF THIS SECTION SHALL NOT APPLY TO:

(A) HIGH-OUTPUT, AND VERY HIGH-OUTPUT, STRAIGHT FLUORESCENT LAMPS MORE THAN 32 MILLIMETERS IN DIAMETER;

(B) MOGUL BI-PIN BASED LAMPS;

(C) PREHEAT STRAIGHT FLUORESCENT LAMPS OF ANY SIZE;

(D) SPECIAL PURPOSE LIGHTING; OR

(E) HIGH INTENSITY DISCHARGE LAMPS.

S 3. Subdivision 1 of section 71-2724 of the environmental conservation law, as added by chapter 145 of the laws of 2004, is amended to read as follows:

1. Any person who knowingly or intentionally violates any provision of or fails to perform any duty pursuant to title twenty-one of article twenty-seven of this chapter, except subdivision one of section 27-2105 AND SUBDIVISION ELEVEN OF SECTION 27-2107 of this chapter, shall upon the first finding of such a violation be liable for a civil penalty not to exceed one hundred dollars. Any person convicted of a second or subsequent violation shall be liable for a civil penalty not to exceed five hundred dollars for each violation.

S 4. Section 71-2724 of the environmental conservation law is amended by adding a new subdivision 2-a to read as follows:

2-A. ANY PERSON WHO KNOWINGLY OR INTENTIONALLY VIOLATES OR FAILS TO PERFORM ANY DUTY IMPOSED BY SUBDIVISION ELEVEN OF SECTION 27-2107 OF THIS CHAPTER OR ANY OF THE PROVISIONS, RULE, OR REGULATION PROMULGATED PURSUANT THERETO SHALL BE PUNISHABLE IN THE CASE OF A FIRST VIOLATION, BY A CIVIL PENALTY NOT TO EXCEED TEN THOUSAND DOLLARS. IN THE CASE OF A SECOND AND ANY FURTHER VIOLATION, THE LIABILITY SHALL BE FOR A CIVIL PENALTY NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS FOR EACH VIOLATION.

S 5. This act shall take effect on the one hundred eightieth day after it shall have become a law.