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

5387--A

2011-2012 Regular Sessions

I N  S E N A T E

May 16, 2011

Introduced by Sens. ALESI, AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to regulation of toys, and food and beverage containers containing bisphenol A

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

Section 1. Section 37-0503 of the environmental conservation law, as added by chapter 280 of the laws of 2010, is amended to read as follows:
S 37-0503. Definitions.
As used in this title[, "child]:
1. "CHILD care product" means all pacifiers and unfilled beverage containers to be used by children under three years old for the consumption of liquids including pacifiers, baby bottles, baby bottle liners and cups, cup lids, straws and sippy cups.
2. "TOY" MEANS ALL PRODUCTS DESIGNED OR INTENDED BY THE MANUFACTURER TO BE USED FOR PLAY BY CHILDREN THREE YEARS OF AGE AND YOUNGER.
S 2. Section 37-0505 of the environmental conservation law, as added by chapter 280 of the laws of 2010, is amended to read as follows:
S 37-0505. Child care products AND TOYS.
1. Beginning December first, two thousand ten, 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 bisphenol A.
2. BEGINNING DECEMBER FIRST, TWO THOUSAND TWELVE, NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR CORPORATION SHALL SELL OR OFFER FOR SALE ANY TOY CONTAINING BISPHENOL A.

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

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3. 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 3. Sections 37-0507, 37-0509 and 37-0511 of the environmental conservation law are renumbered sections 37-0511, 37-0513 and 37-0515, and two new sections 37-0507 and 37-0509 are added to read as follows:

S 37-0507. FOOD AND BEVERAGE CONTAINERS.

1. BEGINNING DECEMBER FIRST, TWO THOUSAND THIRTEEN, NO PERSON, FIRM, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR CORPORATION SHALL SELL OR OFFER FOR SALE ANY LIQUID, FOOD OR BEVERAGE IN A CAN, JAR OR OTHER CONTAINER CONTAINING BISPHENOL A IF THE LIQUID, FOOD OR BEVERAGE IS DESIGNED OR INTENDED PRIMARILY FOR CONSUMPTION BY CHILDREN THREE YEARS OF AGE OR YOUNGER.

2. A MANUFACTURER OF A PRODUCT THAT IS SUBJECT TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION, MAY APPLY TO THE DEPARTMENT FOR WAIVER OF THE REQUIREMENTS OF SUCH SUBDIVISION FOR A PERIOD OF ONE YEAR, UPON PROOF THAT THERE ARE NO AVAILABLE ALTERNATIVES TO BISPHENOL A IN THE MANUFACTURE OF THE CAN, JAR OR OTHER CONTAINER THAT IS SUBJECT TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION. AFTER THE GRANTING OF SUCH A WAIVER TO A MANUFACTURER, IT MAY THEREAFTER APPLY FOR ONE ADDITIONAL ONE YEAR WAIVER.

S 37-0509. ALTERNATIVES TO BISPHENOL A.

1. A MANUFACTURER OF A PRODUCT PROHIBITED TO BE SOLD OR OFFERED FOR SALE PURSUANT TO THIS TITLE SHALL:

A. NOT REPLACE BISPHENOL A WITH ANOTHER CHEMICAL COMPOUND THAT HAS BEEN SCIENTIFICALLY ESTABLISHED TO BE A KNOWN HUMAN CARCINOGEN AS CLASSIFIED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, A DEVELOPMENTAL TOXIN, AN ENDOCRINE DISRUPTER OR A REPRODUCTIVE TOXIN;

B. USE THE LEAST TOXIC ALTERNATIVE CHEMICAL COMPOUND TO REPLACE BISPHENOL A;

C. PROVIDE, TO THE DEPARTMENT PRIOR TO THE MANUFACTURE OF SUCH PRODUCT, INFORMATION ON SUCH LEAST TOXIC ALTERNATIVE CHEMICAL COMPOUND; AND

D. NOT MANUFACTURE SUCH PRODUCT UNTIL THE DEPARTMENT SHALL HAVE CERTIFIED SUCH LEAST TOXIC ALTERNATIVE CHEMICAL COMPOUND TO REPLACE BISPHENOL A.

2. EVERY LEAST TOXIC ALTERNATIVE CHEMICAL COMPOUND TO REPLACE BISPHENOL A CERTIFIED BY THE DEPARTMENT SHALL:

A. BE THE LEAST TOXIC ALTERNATIVE AVAILABLE; AND

B. NOT BE A KNOWN HUMAN CARCINOGEN AS CLASSIFIED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, A DEVELOPMENTAL TOXIN, AN ENDOCRINE DISRUPTER OR A REPRODUCTIVE TOXIN.

3. THE DEPARTMENT SHALL REGULARLY UPDATE ITS LISTING OF LEAST TOXIC CHEMICAL COMPOUNDS CERTIFIED PURSUANT TO SUBDIVISION TWO OF THIS SECTION AND PROVIDE SUCH UPDATED LISTINGS TO MANUFACTURERS TO WHICH SUBDIVISION ONE OF THIS SECTION APPLIES.

S 4. This act shall take effect immediately.