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I N S E N A T E

March 27, 2014

Introduced by Sens. GRISANTI, AVELLA -- read twice and ordered printed,
and when printed to be committed to the Committee on Environmental
Conservation

AN ACT to amend the environmental conservation law, in relation to
prohibiting mercury-added rotational balancing products

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

1 Section 1. Subdivisions 1, 2, 9 and 10 of section 27-2107 of the envi-
2 ronmental conservation law, subdivision 1 as amended and subdivision 9
3 as added by chapter 676 of the laws of 2005, subdivision 2 as added by
4 chapter 145 of the laws of 2004 and subdivision 10 as added by chapter
5 20 of the laws of 2011, are amended to read as follows:
6 1. On [and] OR after January first, two thousand five, no person shall
7 sell, offer for sale or distribute free of charge in the state any
8 mercury-added novelty consumer product. A manufacturer that produces or
9 sells mercury-added novelty consumer products shall notify retailers
10 that sell mercury-added novelty consumer products about such product ban
11 and inform such retailers of how to properly dispose of the remaining
12 inventory.
13 2. On [and] OR after January first, two thousand five, no person shall
14 sell, offer for sale or distribute free of charge mercury fever thermom-
15 eters or mercury body thermometers except by prescription written by a
16 physician. A manufacturer of such thermometers shall provide the buyer
17 or the recipient with notice of mercury content, instructions on proper
18 disposal and instructions that clearly describe how to carefully handle
19 the thermometer to avoid breakage and on proper cleanup should a break-
20 age occur.
21 9. ON OR AFTER APRIL FIRST, TWO THOUSAND FIFTEEN, NO PERSON SHALL
22 SELL, OFFER FOR SALE OR DISTRIBUTE ANY MERCURY-ADDED ROTATIONAL BALANC-
23 ING PRODUCT FOR USE ON WHEELS, CLUTCHES, FLY WHEELS, ENGINES, FANS,
24 MOTORS AND PUMPS, CRANK SHAFTS, DRIVE SHAFTS, OR OTHER ROTATING DEVICES.
25 10. The provisions of subdivisions five, six, seven, [and] eight, AND
26 NINE of this section shall not apply to the sale or distribution of any
27 mercury-added consumer product delineated in those subdivisions if the

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

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1 use of such product is a federal requirement. The department shall
2 develop informational materials on the dangers of mercury-added consumer
3 products, specifically thermometers and barometers, and disseminate such
4 materials to antique dealers and resale establishments.

5 [10.] 11. The department may grant a waiver from the provisions of
6 [subdivision] SUBDIVISIONS eight AND NINE of this section upon request
7 by the manufacturer of a mercury-added consumer product.

8 (a) An application for a waiver shall be in the form prescribed by the
9 department and document the basis for the requested waiver or renewal of
10 a waiver and describe how the manufacturer will ensure that a system
11 exists for the proper collection, transportation and processing of the
12 mercury-added consumer products at the end of their useful life.

13 (b) The application must include at a minimum, information that demon-
14 strates:

15 (i) there are no non-mercury alternatives that are comparable in price
16 to, are as effective in performance as, or are as accurate and precise
17 as the identified mercury-added consumer product;

18 (ii) the use of the mercury-added consumer product provides a net
19 benefit to the environment, public health, or public safety when
20 compared to a non-mercury alternative; or

21 (iii) there are other factors affecting the use of non-mercury alter-
22 natives.

23 (c) The manufacturer must notify the regional multi-state clearing-
24 house, as identified in section 27-2115 of this title, of its request
25 for a waiver pursuant to this subdivision and provide the clearinghouse
26 with the information required in its waiver application.

27 (d) The department may grant or deny, in whole or in part, a request
28 for a waiver. In determining whether to grant or deny a waiver or waiver
29 renewal, the department may consult with the clearinghouse, other
30 states, or regional governmental organizations to promote consistency in
31 the implementation of this subdivision.

32 (e) Waivers shall be granted for a period not to exceed two years.
33 Upon a request by the manufacturer, the department may renew a waiver
34 for a period not to exceed two years if the department finds that the
35 manufacturer continues to meet the requirements for a waiver, that the
36 manufacturer has complied with all conditions of the original waiver,
37 and the manufacturer demonstrates that reasonable efforts have been made
38 to remove mercury from the product subject to the waiver.

39 S 2. Section 37-0113 of the environmental conservation law, as added
40 by chapter 494 of the laws of 2010, is amended to read as follows:

41 S 37-0113. Lead AND MERCURY-ADDED wheel [weight] WEIGHTS; prohibited.

42 1. On and after April first, two thousand eleven any person replacing
43 or balancing a tire on a motor vehicle required to be registered under
44 article fourteen of title four of the vehicle and traffic law, shall not
45 use a wheel weight or other product for balancing motor vehicle wheels
46 if the weight or other balancing product contains more than 0.1 percent
47 lead by weight.

48 2. On and after April first, two thousand eleven, a person shall not
49 sell or offer to sell or distribute weights or other products for
50 balancing motor vehicle wheels if the weight or other balancing product
51 contains more than 0.1 percent lead by weight.

52 3. On and after April first, two thousand twelve, a person may not
53 sell a new motor vehicle that is equipped with a weight or other product
54 for balancing motor vehicle wheels if the weight or other balancing
55 product contains more than 0.1 percent lead by weight.

1 4. ON AND AFTER APRIL FIRST, TWO THOUSAND FIFTEEN, ANY PERSON REPLAC-
2 ING OR BALANCING A TIRE ON A MOTOR VEHICLE REQUIRED TO BE REGISTERED
3 UNDER ARTICLE FOURTEEN OF TITLE FOUR OF THE VEHICLE AND TRAFFIC LAW,
4 SHALL NOT USE A WHEEL WEIGHT OR OTHER PRODUCT FOR BALANCING MOTOR VEHI-
5 CLE WHEELS IF THE WEIGHT OR OTHER BALANCING PRODUCT CONTAINS MERCURY
6 THAT WAS INTENTIONALLY ADDED DURING THE MANUFACTURE OF THE PRODUCT.

7 5. ON AND AFTER APRIL FIRST, TWO THOUSAND FIFTEEN, A PERSON SHALL NOT
8 SELL OR OFFER TO SELL OR DISTRIBUTE WEIGHTS OR OTHER PRODUCTS FOR
9 BALANCING MOTOR VEHICLE WHEELS IF THE WEIGHT OR OTHER BALANCING PRODUCT
10 CONTAINS MERCURY THAT WAS INTENTIONALLY ADDED DURING THE MANUFACTURE OF
11 THE PRODUCT.

12 6. ON AND AFTER APRIL FIRST, TWO THOUSAND SIXTEEN, A PERSON MAY NOT
13 SELL A NEW MOTOR VEHICLE THAT IS EQUIPPED WITH A WEIGHT OR OTHER PRODUCT
14 FOR BALANCING MOTOR VEHICLE WHEELS IF THE WEIGHT OR OTHER BALANCING
15 PRODUCT CONTAINS MERCURY THAT WAS INTENTIONALLY ADDED DURING THE MANU-
16 FACTURE OF THE PRODUCT.

17 7. For purposes of this section, the following terms shall have the
18 following meanings:

19 a. "New motor vehicle" means a motor vehicle that is required to be
20 registered under article fourteen of title four of the vehicle and traf-
21 fic law that has not been previously sold to any person except a
22 distributor, wholesaler or motor vehicle dealer for resale.

23 b. "Person" means any individual, firm, association, partnership,
24 corporation, organization, or joint venture.

25 S 3. This act shall take effect immediately.