

7018--A

I N S E N A T E

April 14, 2014

Introduced by Sens. GRISANTI, ADDABBO, AVELLA, BOYLE, BRESLIN, CARLUCCI, DIAZ, DILAN, ESPAILLAT, GIANARIS, GIPSON, HASSELL-THOMPSON, HOYLMAN, KENNEDY, KRUEGER, LARKIN, LATIMER, LAVALLE, MONTGOMERY, O'BRIEN, PARKER, PERALTA, PERKINS, RITCHIE, RIVERA, ROBACH, SERRANO, SQUADRON, STAVISKY, TKACZYK, VALESKY -- (at request of the Attorney General) -- 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 manufacture, distribution and sale of personal cosmetic products containing microbeads

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 9 to read as follows:

TITLE 9
MICROBEADS

SECTION 37-0901. SHORT TITLE.

37-0903. DEFINITIONS.

37-0905. PERSONAL COSMETIC PRODUCTS CONTAINING MICROBEADS.

37-0907. PREEMPTION.

37-0909. EXEMPTION.

37-0911. RULES AND REGULATIONS.

S 37-0901. SHORT TITLE.

THIS TITLE SHALL BE KNOWN AND MAY BE CITED AS THE "MICROBEAD-FREE WATERS ACT."

S 37-0903. DEFINITIONS.

1. THE TERM "MICROBEAD" SHALL MEAN ANY INTENTIONALLY ADDED PLASTIC PARTICLE MEASURED TO BE FIVE MILLIMETERS OR LESS IN SIZE USED TO EXFOLIATE OR CLEANSE IN A PERSONAL CARE PRODUCT.

2. THE TERM "PERSONAL COSMETIC PRODUCT" SHALL MEAN ANY (A) ARTICLE INTENDED TO BE RUBBED, POURED, SPRINKLED, OR SPRAYED ON, INTRODUCED INTO, OR OTHERWISE APPLIED TO THE HUMAN BODY OR ANY PART THEREOF FOR

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

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CLEANSING, BEAUTIFYING, PROMOTING ATTRACTIVENESS, OR ALTERING THE APPEARANCE, INCLUDING BUT NOT LIMITED TO SOAP, EXFOLIATES, SHAMPOOS, TOOTHPASTES AND SCRUBS, AND (B) ARTICLE INTENDED FOR USE AS A COMPONENT OF ANY SUCH ARTICLE. THE TERM "PERSONAL COSMETIC PRODUCT" SHALL NOT INCLUDE ANY PRODUCT FOR WHICH A PRESCRIPTION IS REQUIRED FOR DISTRIBUTION OR DISPENSATION AS PROVIDED IN SECTION TWO HUNDRED EIGHTY-ONE OF THE PUBLIC HEALTH LAW OR SECTION SIX THOUSAND EIGHT HUNDRED TEN OF THE EDUCATION LAW.

S 37-0905. PERSONAL COSMETIC PRODUCTS CONTAINING MICROBEADS.

NO PERSON SHALL SELL OR OFFER FOR SALE ANY PERSONAL COSMETIC PRODUCT WHICH CONTAINS MICROBEADS AS DEFINED IN THIS TITLE.

S 37-0907. PREEMPTION.

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

S 37-0909. EXEMPTION.

UPON APPLICATION BY A MANUFACTURER, IN A FORM TO BE DETERMINED BY THE DEPARTMENT, THE DEPARTMENT MAY EXEMPT, FROM THE SALES PROHIBITION UNDER THIS TITLE, ANY PERSONAL CARE PRODUCT THAT CONTAINS MICROBEADS THAT BIODEGRADE IN AN AQUATIC ENVIRONMENT IN A SAFE AND TIMELY MANNER.

S 37-0911. 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 is amended by adding a new subdivision 4 to read as follows:

4. ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF, OR WHO FAILS TO PERFORM ANY DUTY IMPOSED BY SECTION 37-0905 OF THIS CHAPTER OR ANY RULE OR REGULATION PROMULGATED PURSUANT THERETO, SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED TWO THOUSAND FIVE HUNDRED 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 FIVE THOUSAND DOLLARS FOR EACH DAY DURING WHICH SUCH VIOLATION CONTINUES AND SUCH PERSON MAY BE ENJOINED FROM CONTINUING SUCH VIOLATION.

S 3. This act shall take effect December 31, 2016, provided however that section 37-0905 of the environmental conservation law as added by section one of this act shall take effect on December 31, 2018.