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I N A S S E M B L Y

February 11, 2014

Introduced by M. of A. SWEENEY, SCHIMEL, PEOPLES-STOKES, JAFFEE, KAVANAGH, OTIS -- Multi-Sponsored by -- M. of A. GLICK, ROSENTHAL, STIRPE -- (at request of the Department of Law) -- read once and referred to the Committee on Environmental Conservation

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:

1 Section 1. Legislative intent. The legislature hereby finds that
2 microbeads, a synthetic alternative ingredient to such natural materials
3 as ground almonds, oatmeal and pumice, found in over one hundred
4 personal cosmetic products, including facial cleansers, shampoos and
5 toothpastes, pose a serious threat to New York's environment.

6 Microbeads have been documented to collect harmful pollutants, already
7 present in the environment, and harm fish and other aquatic organisms
8 that form the base of the aquatic food chain. Recently, microbeads have
9 been recorded in New York's water bodies, and in particular, the waters
10 of Lake Erie. Research has suggested that the majority of these micro-
11 beads are entering water bodies through disposal down household drains
12 following the use of such personal cosmetic products.

13 Without significant and costly improvements to the majority of New
14 York's sewage treatment facilities, microbeads contained in personal
15 cosmetic products will continue to pollute New York's waters and hinder
16 the ongoing efforts to restore the state's lakes and rivers, recreation-
17 al and commercial fisheries as well as recent substantial economic
18 investments in redeveloping New York's waterfronts.

19 S 2. Article 37 of the environmental conservation law is amended by
20 adding a new title 9 to read as follows:

21 TITLE 9
22 MICROBEADS

23 SECTION 37-0901. SHORT TITLE.

24 37-0903. DEFINITIONS.

25 37-0905. PERSONAL COSMETIC PRODUCTS CONTAINING MICROBEADS.

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

1 37-0907. PREEMPTION.

2 37-0909. RULES AND REGULATIONS.

3 S 37-0901. SHORT TITLE.

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

6 S 37-0903. DEFINITIONS.

7 1. THE TERM "MICROBEAD" SHALL MEAN ANY PLASTIC COMPONENT OF A PERSONAL
8 COSMETIC PRODUCT MEASURED TO BE FIVE MILLIMETERS OR LESS IN SIZE.

9 2. THE TERM "PERSONAL COSMETIC PRODUCT" SHALL MEAN ANY (A) ARTICLE
10 INTENDED TO BE RUBBED, Poured, SPRINKLED, OR SPRAYED ON, INTRODUCED
11 INTO, OR OTHERWISE APPLIED TO THE HUMAN BODY OR ANY PART THEREOF FOR
12 CLEANSING, BEAUTIFYING, PROMOTING ATTRACTIVENESS, OR ALTERING THE
13 APPEARANCE, AND (B) ARTICLE INTENDED FOR USE AS A COMPONENT OF ANY SUCH
14 ARTICLE. THE TERM "PERSONAL COSMETIC PRODUCT" SHALL NOT INCLUDE ANY
15 PRODUCT FOR WHICH A PRESCRIPTION IS REQUIRED FOR DISTRIBUTION OR DISPEN-
16 SATION AS PROVIDED IN SECTION TWO HUNDRED EIGHTY-ONE OF THE PUBLIC
17 HEALTH LAW OR SECTION SIX THOUSAND EIGHT HUNDRED TEN OF THE EDUCATION
18 LAW.

19 S 37-0905. PERSONAL COSMETIC PRODUCTS CONTAINING MICROBEADS.

20 NO PERSON SHALL PRODUCE, MANUFACTURE, SELL OR OFFER FOR SALE ANY
21 PERSONAL COSMETIC PRODUCT WHICH CONTAINS INTENTIONALLY-ADDED MICROBEADS.

22 S 37-0907. PREEMPTION.

23 JURISDICTION IN ALL MATTERS PERTAINING TO MICROBEADS WHICH ARE REGU-
24 LATED PURSUANT TO THE PROVISIONS OF THIS TITLE SHALL BE VESTED EXCLU-
25 SIVELY IN THE STATE.

26 S 37-0909. RULES AND REGULATIONS.

27 THE DEPARTMENT IS AUTHORIZED TO PROMULGATE SUCH RULES AND REGULATIONS
28 AS IT SHALL DEEM NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS TITLE.

29 S 3. Section 71-3703 of the environmental conservation law is amended
30 by adding a new subdivision 4 to read as follows:

31 4. ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF, OR WHO FAILS TO
32 PERFORM ANY DUTY IMPOSED BY SECTION 37-0905 OF THIS CHAPTER OR ANY RULE
33 OR REGULATION PROMULGATED PURSUANT THERETO, SHALL BE LIABLE FOR A CIVIL
34 PENALTY NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH DAY
35 DURING WHICH SUCH VIOLATION CONTINUES, AND IN ADDITION THERETO, SUCH
36 PERSON MAY BE ENJOINED FROM CONTINUING SUCH VIOLATION. SUCH PERSON SHALL
37 FOR A SECOND VIOLATION BE LIABLE TO THE PEOPLE OF THE STATE FOR A CIVIL
38 PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS FOR EACH DAY DURING WHICH
39 SUCH VIOLATION CONTINUES AND SUCH PERSON MAY BE ENJOINED FROM CONTINUING
40 SUCH VIOLATION.

41 S 4. This act shall take effect December 31, 2015.