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Cal. No. 490

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, ENGLEBRIGHT, ZEBROWSKI, ROSENTHAL, FAHY, LIFTON, KEARNS, NOJAY, WEPRIN, COLTON, LUPARDO, JACOBS, CLARK, RYAN -- Multi-Sponsored by -- M. of A. GALEF, GLICK, MONTESANO, PERRY, STIRPE -- (at request of the Department of Law) -- read once and referred to the Committee on Environmental Conservation -- reported and referred to the Committee on Codes -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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:

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

LBD13258-14-4

TITLE 9
MICROBEADS

SECTION 37-0901. SHORT TITLE.

37-0903. DEFINITIONS.

37-0905. PERSONAL COSMETIC PRODUCTS CONTAINING MICROBEADS.

37-0907. PREEMPTION.

37-0909. 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 PLASTIC COMPONENT OF A PERSONAL
COSMETIC PRODUCT MEASURED TO BE FIVE MILLIMETERS OR LESS IN SIZE.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
CLEANSING, BEAUTIFYING, PROMOTING ATTRACTIVENESS, OR ALTERING THE
APPEARANCE, 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 DISPEN-
SATION 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 INTENTIONALLY-ADDED MICROBEADS; PROVIDED, HOWEVER, A
PERSONAL COSMETIC PRODUCT THAT IS ALSO REGULATED AS A DRUG BY THE UNITED
STATES FOOD AND DRUG ADMINISTRATION MAY BE SOLD OR OFFERED FOR SALE
UNTIL JANUARY FIRST, TWO THOUSAND SEVENTEEN.

S 37-0907. PREEMPTION.

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

S 37-0909. 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 3. 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 4. This act shall take effect January 1, 2016.