7018

IN SENATE

April 14, 2014

Introduced by Sen. GRISANTI -- (at request of the Attorney General) -- 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 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. Legislative intent. The legislature hereby finds that microbeads, a synthetic alternative ingredient to such natural materials as ground almonds, oatmeal and pumice, found in over one hundred personal cosmetic products, including facial cleansers, shampoos and toothpastes, pose a serious threat to New York's environment.

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

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

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

TITLE 9 MICROBEADS

23 SECTION 37-0901. SHORT TITLE.

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37-0903. DEFINITIONS.

37-0905. PERSONAL COSMETIC PRODUCTS CONTAINING MICROBEADS.

37-0907. PREEMPTION.

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

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37-0909. RULES AND REGULATIONS.

- S 37-0901. SHORT TITLE.
- 3 THIS TITLE SHALL BE KNOWN AND MAY BE CITED AS THE "MICROBEAD-FREE WATERS ACT."
- 5 S 37-0903. DEFINITIONS.

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LAW.

- 6 1. THE TERM "MICROBEAD" SHALL MEAN ANY PLASTIC COMPONENT OF A PERSONAL 7 COSMETIC PRODUCT MEASURED TO BE FIVE MILLIMETERS OR LESS IN SIZE.
- 8 2. THE TERM "PERSONAL COSMETIC PRODUCT" SHALL MEAN ANY (A) ARTICLE 9 INTENDED TO BE RUBBED, POURED, SPRINKLED, OR SPRAYED ON, INTRODUCED 10 INTO, OR OTHERWISE APPLIED TO THE HUMAN BODY OR ANY PART THEREOF BEAUTIFYING, PROMOTING ATTRACTIVENESS, OR ALTERING 11 CLEANSING, 12 APPEARANCE, AND (B) ARTICLE INTENDED FOR USE AS A COMPONENT OF ANY SUCH THE TERM "PERSONAL COSMETIC PRODUCT" SHALL NOT INCLUDE ANY 13 ARTICLE. 14 PRODUCT FOR WHICH A PRESCRIPTION IS REQUIRED FOR DISTRIBUTION OR DISPEN-15 SATION AS PROVIDED IN SECTION TWO HUNDRED EIGHTY-ONE OF THE 16 HEALTH LAW OR SECTION SIX THOUSAND EIGHT HUNDRED TEN OF THE EDUCATION
- S 37-0905. PERSONAL COSMETIC PRODUCTS CONTAINING MICROBEADS. 18
- 19 NO PERSON SHALL PRODUCE, MANUFACTURE, SELL OR OFFER FOR SALE ANY PERSONAL COSMETIC PRODUCT WHICH CONTAINS INTENTIONALLY-ADDED MICROBEADS. 20 21 S 37-0907. PREEMPTION.
- 22 JURISDICTION IN ALL MATTERS PERTAINING TO MICROBEADS WHICH ARE REGU-23 LATED PURSUANT TO THE PROVISIONS OF THIS TITLE SHALL BE VESTED EXCLU-24 SIVELY IN THE STATE.
- 25 S 37-0909. RULES AND REGULATIONS.
- 26 THE DEPARTMENT IS AUTHORIZED TO PROMULGATE SUCH RULES AND REGULATIONS 27 AS IT SHALL DEEM NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS TITLE.
- 28 S 3. Section 71-3703 of the environmental conservation law is amended 29 by adding a new subdivision 4 to read as follows:
- 4. ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF, OR WHO FAILS TO 30 PERFORM ANY DUTY IMPOSED BY SECTION 37-0905 OF THIS CHAPTER OR ANY RULE 31 OR REGULATION PROMULGATED PURSUANT THERETO, SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH DAY 33 34 DURING WHICH SUCH VIOLATION CONTINUES, AND IN ADDITION THERETO, SUCH PERSON MAY BE ENJOINED FROM CONTINUING SUCH VIOLATION. SUCH PERSON SHALL 35 FOR A SECOND VIOLATION BE LIABLE TO THE PEOPLE OF THE STATE FOR A CIVIL 36 37 PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS FOR EACH DAY DURING WHICH 38 SUCH VIOLATION CONTINUES AND SUCH PERSON MAY BE ENJOINED FROM CONTINUING 39 SUCH VIOLATION.
- 40 S 4. This act shall take effect December 31, 2015.