

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

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

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

12 S 37-0907. PREEMPTION.

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

16 S 37-0909. EXEMPTION.

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

21 S 37-0911. RULES AND REGULATIONS.

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

24 S 2. Section 71-3703 of the environmental conservation law is amended
25 by adding a new subdivision 4 to read as follows:

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

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