

2015-2016 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2015

Introduced by M. of A. ROSENTHAL, ENGLEBRIGHT, CRESPO, JAFFEE, OTIS,
COLTON, KAVANAGH -- Multi-Sponsored by -- M. of A. BUCHWALD, GLICK,
LIFTON, LUPARDO, THIELE -- read once and referred to the Committee on
Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to
prohibiting mercury-added rotational balancing products

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Subdivisions 9 and 10 of section 27-2107 of the environ-
2 mental conservation law, subdivision 9 as added by chapter 676 of the
3 laws of 2005 and subdivision 10 as added by chapter 20 of the laws of
4 2011, are amended to read as follows:
5 9. NO LATER THAN APRIL FIRST, TWO THOUSAND SEVENTEEN, THE DEPARTMENT
6 SHALL PROMULGATE REGULATIONS TO PROHIBIT THE SALE, OFFER FOR SALE, OR
7 DISTRIBUTION OF MERCURY-ADDED ROTATIONAL BALANCING PRODUCTS FOR USE ON
8 ANY OF THE FOLLOWING DEVICES FOR WHICH A MERCURY-FREE ALTERNATIVE IS
9 AVAILABLE: ROTATING DEVICES, WHEELS, CLUTCHES, FLY WHEELS, ENGINES,
10 FANS, MOTORS, PUMPS, CRANK SHAFTS, AND DRIVE SHAFTS.
11 10. The provisions of subdivisions five, six, seven, [and] eight, AND
12 NINE of this section shall not apply to the sale or distribution of any
13 mercury-added consumer product delineated in those subdivisions if the
14 use of such product is a federal requirement. The department shall
15 develop informational materials on the dangers of mercury-added consumer
16 products, specifically thermometers and barometers, and disseminate such
17 materials to antique dealers and resale establishments.
18 [10.] 11. The department may grant a waiver from the provisions of
19 subdivision eight of this section upon request by the manufacturer of a
20 mercury-added consumer product.
21 (a) An application for a waiver shall be in the form prescribed by the
22 department and document the basis for the requested waiver or renewal of

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

LBD04298-01-5

1 a waiver and describe how the manufacturer will ensure that a system
2 exists for the proper collection, transportation and processing of the
3 mercury-added consumer products at the end of their useful life.

4 (b) The application must include at a minimum, information that demon-
5 strates:

6 (i) there are no non-mercury alternatives that are comparable in price
7 to, are as effective in performance as, or are as accurate and precise
8 as the identified mercury-added consumer product;

9 (ii) the use of the mercury-added consumer product provides a net
10 benefit to the environment, public health, or public safety when
11 compared to a non-mercury alternative; or

12 (iii) there are other factors affecting the use of non-mercury alter-
13 natives.

14 (c) The manufacturer must notify the regional multi-state clearing-
15 house, as identified in section 27-2115 of this title, of its request
16 for a waiver pursuant to this subdivision and provide the clearinghouse
17 with the information required in its waiver application.

18 (d) The department may grant or deny, in whole or in part, a request
19 for a waiver. In determining whether to grant or deny a waiver or waiver
20 renewal, the department may consult with the clearinghouse, other
21 states, or regional governmental organizations to promote consistency in
22 the implementation of this subdivision.

23 (e) Waivers shall be granted for a period not to exceed two years.
24 Upon a request by the manufacturer, the department may renew a waiver
25 for a period not to exceed two years if the department finds that the
26 manufacturer continues to meet the requirements for a waiver, that the
27 manufacturer has complied with all conditions of the original waiver,
28 and the manufacturer demonstrates that reasonable efforts have been made
29 to remove mercury from the product subject to the waiver.

30 S 2. Section 37-0113 of the environmental conservation law, as added
31 by chapter 494 of the laws of 2010, is amended to read as follows:

32 S 37-0113. Lead AND MERCURY-ADDED wheel [weight] WEIGHTS; prohibited.

33 1. On and after April first, two thousand eleven any person replacing
34 or balancing a tire on a motor vehicle required to be registered under
35 article fourteen of title four of the vehicle and traffic law, shall not
36 use a wheel weight or other product for balancing motor vehicle wheels
37 if the weight or other balancing product contains more than 0.1 percent
38 lead by weight.

39 2. On and after April first, two thousand eleven, a person shall not
40 sell or offer to sell or distribute weights or other products for
41 balancing motor vehicle wheels if the weight or other balancing product
42 contains more than 0.1 percent lead by weight.

43 3. On and after April first, two thousand twelve, a person may not
44 sell a new motor vehicle that is equipped with a weight or other product
45 for balancing motor vehicle wheels if the weight or other balancing
46 product contains more than 0.1 percent lead by weight.

47 4. ON AND AFTER APRIL FIRST, TWO THOUSAND SIXTEEN, ANY PERSON REPLAC-
48 ING OR BALANCING A TIRE ON A MOTOR VEHICLE REQUIRED TO BE REGISTERED
49 UNDER ARTICLE FOURTEEN OF TITLE FOUR OF THE VEHICLE AND TRAFFIC LAW,
50 SHALL NOT USE A WHEEL WEIGHT OR OTHER PRODUCT FOR BALANCING MOTOR VEHI-
51 CLE WHEELS IF THE WEIGHT OR OTHER BALANCING PRODUCT CONTAINS MERCURY
52 THAT WAS INTENTIONALLY ADDED DURING THE MANUFACTURE OF THE PRODUCT.

53 5. ON AND AFTER APRIL FIRST, TWO THOUSAND SIXTEEN, A PERSON SHALL NOT
54 SELL OR OFFER TO SELL OR DISTRIBUTE WEIGHTS OR OTHER PRODUCTS FOR
55 BALANCING MOTOR VEHICLE WHEELS IF THE WEIGHT OR OTHER BALANCING PRODUCT

1 CONTAINS MERCURY THAT WAS INTENTIONALLY ADDED DURING THE MANUFACTURE OF
2 THE PRODUCT.
3 6. For purposes of this section, the following terms shall have the
4 following meanings:
5 a. "New motor vehicle" means a motor vehicle that is required to be
6 registered under article fourteen of title four of the vehicle and traf-
7 fic law that has not been previously sold to any person except a
8 distributor, wholesaler or motor vehicle dealer for resale.
9 b. "Person" means any individual, firm, association, partnership,
10 corporation, organization, or joint venture.
11 S 3. This act shall take effect immediately.