

3932

2015-2016 Regular Sessions

I N S E N A T E

February 23, 2015

Introduced by Sen. O'MARA -- (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 distribution and sale of personal cosmetic products
containing microbeads

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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.

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

LBD09275-02-5

1 37-0903. DEFINITIONS.

2 37-0905. PERSONAL COSMETIC PRODUCTS CONTAINING MICROBEADS.

3 37-0907. PREEMPTION.

4 37-0909. RULES AND REGULATIONS.

5 S 37-0901. SHORT TITLE.

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

8 S 37-0903. DEFINITIONS.

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

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

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

22 NO PERSON SHALL SELL OR OFFER FOR SALE ANY PERSONAL COSMETIC PRODUCT
23 WHICH CONTAINS INTENTIONALLY-ADDED MICROBEADS; PROVIDED, HOWEVER, A
24 PERSONAL COSMETIC PRODUCT THAT IS ALSO REGULATED AS A DRUG BY THE UNITED
25 STATES FOOD AND DRUG ADMINISTRATION MAY BE SOLD OR OFFERED FOR SALE
26 UNTIL JANUARY FIRST, TWO THOUSAND SEVENTEEN.

27 S 37-0907. PREEMPTION.

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

31 S 37-0909. RULES AND REGULATIONS.

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

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

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

46 S 4. This act shall take effect January 1, 2016.