

3932

2015-2016 Regular Sessions

I N   S E N A T E

February 23, 2015

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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

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 DISPENSATION 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 REGULATED PURSUANT TO THE PROVISIONS OF THIS TITLE SHALL BE VESTED EXCLUSIVELY 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.