

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.