S T A T E O F N E W Y O R K

4403--A

Cal. No. 290

2015-2016 Regular Sessions

I N S E N A T E

March 18, 2015

Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the environmental conservation law, in relation to prohibiting the manufacture and sale of personal care products and over-the-counter drugs containing synthetic plastic 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

SYNTHETIC PLASTIC MICROBEADS

SECTION 37-0901. DEFINITIONS.

37-0903. PERSONAL CARE PRODUCTS AND OVER-THE-COUNTER DRUGS CONTAINING SYNTHETIC PLASTIC MICROBEADS.

37-0905. PREEMPTION.

S 37-0901. DEFINITIONS.

1. THE TERM "OVER-THE-COUNTER DRUG" SHALL MEAN A DRUG THAT IS A PERSONAL CARE PRODUCT THAT CONTAINS A LABEL THAT IDENTIFIES THE PRODUCT AS A DRUG AS REQUIRED BY 21 CFR 201.66. AN "OVER-THE-COUNTER DRUG" LABEL INCLUDES: (A) A DRUG FACTS PANEL, OR (B) A STATEMENT OF THE ACTIVE INGREDIENTS WITH A LIST OF THOSE INGREDIENTS CONTAINED IN THE COMPOUND, SUBSTANCE, OR PREPARATION.

2. THE TERM "PERSONAL CARE PRODUCT" SHALL MEAN ANY 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 ANY ARTICLE INTENDED FOR USE AS A COMPONENT OF ANY SUCH ARTICLE. THE TERM "PERSONAL CARE PRODUCT" SHALL NOT INCLUDE PRESCRIPTION DRUGS.

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

LBD09340-03-5

3. THE TERM "PLASTIC" SHALL MEAN A SYNTHETIC MATERIAL MADE FROM LINKING MONOMERS THROUGH A CHEMICAL REACTION TO CREATE AN ORGANIC POLYMER CHAIN THAT CAN BE MOLDED OR EXTRUDED AT HIGH HEAT INTO VARIOUS SOLID FORMS RETAINING THEIR DEFINED SHAPES DURING LIFE CYCLE AND AFTER DISPOSAL.

4. THE TERM "SYNTHETIC PLASTIC MICROBEAD" SHALL MEAN ANY INTENTIONALLY ADDED SOLID PLASTIC PARTICLE MEASURED FIVE MILLIMETERS OR LESS IN SIZE AND USED TO EXFOLIATE OR CLEANSE IN A RINSE-OFF PRODUCT AND DOES NOT BREAK DOWN COMPLETELY, IN THE ENVIRONMENT THAT THE SUBSTANCE IS LIKELY TO ENCOUNTER, WITHIN THE CONTEXT OF THE RELEVANT INTERNATIONAL STANDARDS FOR DEGRADATION THROUGH A PHYSICAL, CHEMICAL OR BIOLOGICAL PROCESS OF DECOMPOSITION.

S 37-0903. PERSONAL CARE PRODUCTS AND OVER-THE-COUNTER DRUGS CONTAINING SYNTHETIC PLASTIC MICROBEADS.

1. BEGINNING DECEMBER THIRTY-FIRST, TWO THOUSAND SEVENTEEN, NO PERSON SHALL MANUFACTURE FOR SALE A PERSONAL CARE PRODUCT, EXCEPT FOR AN OVER-THE-COUNTER DRUG, THAT CONTAINS SYNTHETIC PLASTIC MICROBEADS.

2. BEGINNING DECEMBER THIRTY-FIRST, TWO THOUSAND EIGHTEEN, NO PERSON SHALL ACCEPT FOR SALE A PERSONAL CARE PRODUCT, EXCEPT FOR AN OVER-THE-COUNTER DRUG, THAT CONTAINS SYNTHETIC PLASTIC MICROBEADS.

3. BEGINNING DECEMBER THIRTY-FIRST, TWO THOUSAND EIGHTEEN, NO PERSON SHALL MANUFACTURE FOR SALE AN OVER-THE-COUNTER DRUG THAT CONTAINS SYNTHETIC PLASTIC MICROBEADS.

4. BEGINNING DECEMBER THIRTY-FIRST, TWO THOUSAND NINETEEN, NO PERSON SHALL ACCEPT FOR SALE AN OVER-THE-COUNTER DRUG THAT CONTAINS SYNTHETIC PLASTIC MICROBEADS.

S 37-0905. PREEMPTION.

THE PROVISIONS OF THIS TITLE SHALL PREEMPT ANY ORDINANCE OR RESOLUTION OF A MUNICIPALITY, COUNTY OR ANY OTHER LOCAL GOVERNMENT ENTITY RELATING TO SYNTHETIC PLASTIC MICROBEADS.

S 2. 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 37-0903 OF THIS CHAPTER OR ANY RULE OR REGULATION PROMULGATED PURSUANT HERETO, SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED 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 AND EACH SUBSEQUENT VIOLATION BE LIABLE TO THE PEOPLE OF THE STATE FOR A CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH DAY DURING WHICH SUCH VIOLATION CONTINUES.

S 3. This act shall take effect immediately.