

5322--A

2015-2016 Regular Sessions

I N   S E N A T E

May 13, 2015

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Introduced by Sens. MARCELLINO, HOYLMAN, LATIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 ASSEMBLY, 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 EIGHTEEN, 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.

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

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(a) An application for a waiver shall be in the form prescribed by the department and document the basis for the requested waiver or renewal of a waiver and describe how the manufacturer will ensure that a system exists for the proper collection, transportation and processing of the mercury-added consumer products at the end of their useful life.

(b) The application must include at a minimum, information that demonstrates:

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

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

(iii) there are other factors affecting the use of non-mercury alternatives.

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

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

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

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

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

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

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

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

4. ON AND AFTER APRIL FIRST, TWO THOUSAND SEVENTEEN, ANY PERSON REPLACING OR BALANCING A TIRE ON A MOTOR VEHICLE REQUIRED TO BE REGISTERED UNDER ARTICLE FOURTEEN OF TITLE FOUR OF THE VEHICLE AND TRAFFIC LAW, SHALL NOT USE A WHEEL WEIGHT OR OTHER PRODUCT FOR BALANCING MOTOR VEHICLE WHEELS IF THE WEIGHT OR OTHER BALANCING PRODUCT CONTAINS MERCURY THAT WAS INTENTIONALLY ADDED DURING THE MANUFACTURE OF THE PRODUCT.

5. ON AND AFTER APRIL FIRST, TWO THOUSAND SEVENTEEN, A PERSON SHALL NOT SELL OR OFFER TO SELL OR DISTRIBUTE WEIGHTS OR OTHER PRODUCTS FOR

1 BALANCING MOTOR VEHICLE WHEELS IF THE WEIGHT OR OTHER BALANCING PRODUCT  
2 CONTAINS MERCURY THAT WAS INTENTIONALLY ADDED DURING THE MANUFACTURE OF  
3 THE PRODUCT.

4 6. For purposes of this section, the following terms shall have the  
5 following meanings:

6 a. "New motor vehicle" means a motor vehicle that is required to be  
7 registered under article fourteen of title four of the vehicle and traf-  
8 fic law that has not been previously sold to any person except a  
9 distributor, wholesaler or motor vehicle dealer for resale.

10 b. "Person" means any individual, firm, association, partnership,  
11 corporation, organization, or joint venture.

12 S 3. This act shall take effect immediately.