

STATE OF NEW YORK

5794--A

2017-2018 Regular Sessions

IN SENATE

May 1, 2017

Introduced by Sen. RITCHIE -- 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 banning certain chemicals from being manufactured, used, or stored within the state

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The environmental conservation law is amended by adding a new section 37-0115 to read as follows:

§ 37-0115. Prohibition against triclosan, 1,4-dioxane, isophorone, or cyclohexanone.

1. Manufacturing, processing, or distribution. No person shall manufacture, process or distribute in commerce a product, or a part of a product, containing triclosan, 1,4-dioxane, isophorone, cyclohexanone, or any synonym of such products. This restriction shall not apply to the use of isophorone or cyclohexanone, or any synonym of such products, used in the manufacture, process, or distribution of an item that cannot reasonably be expected to come into use by an individual under the age of eighteen.

2. Administration. (a) The commissioner is hereby authorized and directed to prescribe such rules and regulations, including provisions for maintenance of records relating to products or related materials, and for the labeling of a product or related material, as may be necessary and proper for purposes of administration and enforcement of this section.

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

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1 (b) The commissioner is hereby empowered to order the recall of or
2 confiscation of consumer products offered for sale that do not meet the
3 standards set forth in or pursuant to this section.

4 (c) The commissioner may obtain from any person by regulation or
5 subpoena issued pursuant thereto, such information in the form of testi-
6 mony, books, records, or other writings as is pertinent to the findings
7 or determinations which he or she is required or authorized to make
8 pursuant to this section. All information reported to or otherwise
9 obtained by the commissioner or his or her representative pursuant to
10 this section that contains or relates to a trade secret, shall be
11 considered confidential, except that such information may be disclosed
12 to other officers or employees concerned with carrying out this section,
13 or when relevant in any proceeding under this section.

14 3. Guaranty. (a) (i) No person shall be subject to prosecution under
15 this section if such person: (A) establishes a guaranty received in good
16 faith signed by and containing the name and address of the person resid-
17 ing in the United States who shall be responsible for the product or
18 related material; and (B) establishes that such product or related mate-
19 rial will be used for research purposes only and shall not be intro-
20 duced, sold or transported in commerce.

21 (ii) Such guaranty shall be either: (A) a separate guaranty specif-
22 ically designating the product, or related material guaranteed, in which
23 case it may be on the invoice or other paper relating to such product,
24 or related material; (B) a continuing guaranty filed with the department
25 or with the federal trade commission applicable to any product, or
26 related material handled by a guarantor, in such form as the department
27 or the federal trade commission by rules or regulations may prescribe;
28 or (C) a continuing guaranty given by seller to buyer applicable to any
29 product, or related material sold or to be sold to buyer by seller in a
30 form as the department or the federal trade commission by rules or regu-
31 lations may prescribe.

32 (b) The furnishing with respect to any product, or related material,
33 of a false guaranty, except by a person relying upon a guaranty to the
34 same effect received in good faith and signed by and containing the name
35 and address of the person residing in the United States by whom the
36 product, or related material guaranteed was manufactured or from whom it
37 was received, with reason to believe the product, or related material
38 falsely guaranteed may be introduced, sold or transported in commerce,
39 is unlawful.

40 4. Exclusions. (a) The provisions of this section shall not apply to
41 any common carrier, contract carrier or freight forwarder with respect
42 to a product, or related material shipped or delivered for shipment
43 through the state for commerce in another state or country.

44 (b) As used in this section, "distribute in commerce" shall not
45 include the resale of products manufactured prior to January first, two
46 thousand eighteen.

47 5. Violations. Each product, or related material made, sold or exposed
48 for sale, shall constitute a separate violation. A violation of any
49 provision of this section or any rule or regulation promulgated here-
50 under is a class A misdemeanor.

51 6. Severability. The provisions of this section shall be severable and
52 if any portion thereof or the applicability thereof to any person or
53 circumstances shall be held to be invalid, the remainder of this section
54 and the application thereof shall not be affected thereby.

55 § 2. This act shall take effect on the one hundred twentieth day after
56 it shall have become a law; provided, however, that effective immediate-

1 ly, the addition, amendment and/or repeal of any rule or regulation by
2 the commissioner of the department of environmental conservation that is
3 necessary for the implementation of this act on its effective date are
4 authorized to be made and completed on or before such effective date.