STATE OF NEW YORK

5966

2019-2020 Regular Sessions

IN ASSEMBLY

February 20, 2019

Introduced by M. of A. LiPETRI, COLTON, MANKTELOW, McDONOUGH, RAYNOR, REILLY, PALUMBO, RAIA -- read once and referred to the Committee on Environmental Conservation

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.

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

(c) The commissioner may obtain from any person by regulation or subpoena issued pursuant thereto, such information in the form of testi-

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

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mony, books, records, or other writings as is pertinent to the findings or determinations which he or she is required or authorized to make pursuant to this section. All information reported to or otherwise obtained by the commissioner or his or her representative pursuant to this section that contains or relates to a trade secret, shall be considered confidential, except that such information may be disclosed to other officers or employees concerned with carrying out this section, or when relevant in any proceeding under this section.

3. Guaranty. (a) (i) No person shall be subject to prosecution under this section if such person: (A) establishes a guaranty received in good faith signed by and containing the name and address of the person residing in the United States who shall be responsible for the product or related material; and (B) establishes that such product or related material will be used for research purposes only and shall not be introduced, sold or transported in commerce.

(ii) Such guaranty shall be either: (A) a separate guaranty specifically designating the product, or related material guaranteed, in which case it may be on the invoice or other paper relating to such product, or related material; (B) a continuing guaranty filed with the department or with the federal trade commission applicable to any product, or related material handled by a guarantor, in such form as the department or the federal trade commission by rules or regulations may prescribe; or (C) a continuing guaranty given by seller to buyer applicable to any product, or related material sold or to be sold to buyer by seller in a form as the department or the federal trade commission by rules or regulations may prescribe.

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

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

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

5. Violations. Each product, or related material made, sold or exposed for sale, shall constitute a separate violation. A violation of any provision of this section or any rule or regulation promulgated hereunder is a class A misdemeanor.

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

§ 2. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.