STATE OF NEW YORK

6295--A

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IN ASSEMBLY

March 4, 2019

Introduced by M. of A. ENGLEBRIGHT, GOTTFRIED, D. ROSENTHAL, BLAKE, SIMON, ROMEO, ARROYO, THIELE, ABINANTI, D'URSO, LIFTON, STIRPE, JAFFEE, DICKENS, GRIFFIN, SOLAGES, DE LA ROSA, EPSTEIN, COLTON, HYNDMAN, CRUZ, JEAN-PIERRE, L. ROSENTHAL, PICHARDO, OTIS, ZEBROWSKI, HUNTER, GALEF, DINOWITZ, GLICK, WILLIAMS, STECK, WEPRIN, NIOU, MAGNARELLI, CARROLL, ORTIZ, STERN, REYES, MOSLEY, PERRY, PAULIN, FAHY, ASHBY, LUPARDO, BARRON, JONES -- Multi-Sponsored by -- M. of A. COOK, SAYEGH, WRIGHT -- read once and referred to the Committee on Environmental Conservation -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the environmental conservation law, in relation to prohibiting household cleansing products, cosmetic products and personal care products that contain 1,4-dioxane

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

Section 1. Section 35-0105 of the environmental conservation law is amended by adding four new subdivisions 4, 5, 6 and 7 to read as follows:

4. No household cleansing product shall be distributed, sold, offered or exposed for sale in this state which contains 1,4-dioxane other than such trace concentrations; such trace concentrations shall not exceed two parts per million by December thirty-first, two thousand twenty-two; and further, shall not exceed one part per million by December thirty-first, two thousand twenty-three.

5. No later then May first, two thousand twenty-five, and every two years thereafter, the department, in consultation with the department of health, shall review such trace concentration thresholds and determine whether such concentrations shall be lowered to better protect human health and the environment.

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

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6. A manufacturer of a household cleansing product, otherwise subject to the requirements of subdivision four of this section, may apply to the department for a one-year waiver from such requirements for a specific household cleansing product, upon such proof that the manufacturer has taken steps to reduce the presence of 1,4-dioxane in that product and is unable to comply with the requirements of subdivision four of this section. Thereafter, a manufacturer may apply for one additional one-year waiver for such product, upon such the satisfaction of such similar proof.

7. The department is authorized to promulgate such rules and regulations as it shall deem necessary to implement the provisions of this section, including rules and regulations with respect to any allowable trace concentrations, consistent with the requirements of this section.

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

§ 37-0115. Prohibition of cosmetic products and personal care products containing 1,4-dioxane.

1. The term "cosmetic product" shall mean any article (a) intended to be rubbed, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for beautifying, promoting attractiveness, or altering the appearance, and (b) intended for use as a component of any such article. The term "cosmetic product" shall not include any personal care product as defined in this section for which a prescription is required for distribution or dispensation as provided in section two hundred eighty-one of the public health law or section sixty-eight hundred ten of the education law.

2. The term "personal care product" shall mean any product intended for cleaning or cleansing any part of the body, such as the skin and hair, and including but not limited to, hair shampoo, hair conditioner, soap, bath gels and other bath products. The term "personal care product" shall not include any product for which a prescription is required for distribution or dispensation as provided in section two hundred eighty-one of the public health law or section sixty-eight hundred ten of the education law.

3. No person shall sell or offer for sale any cosmetic product containing 1,4-dioxane, other than such trace concentrations, not to exceed ten parts per million by December thirty-first, two thousand twenty-two.

4. No person shall sell or offer for sale any personal care product containing 1,4-dioxane, other than such trace concentrations, as authorized by the commissioner, in consultation with the department of health, by regulation; and further, such trace concentrations for personal care products shall not exceed two parts per million by December thirty-first, two thousand twenty-two and one part per million by December thirty-first, two thousand twenty-three.

5. No later then May first, two thousand twenty-five, and every two years thereafter, the department, in consultation with the department of health, shall review such trace concentration thresholds and determine whether such concentrations shall be lowered to better protect human health and the environment.

6. The department is authorized to promulgate such rules and regulations as it shall deem necessary to implement the provisions of this section, including rules and regulations with respect to any allowable trace concentrations, consistent with the requirements of this section.

7. A manufacturer of a cosmetic product or personal care product, otherwise subject to the requirements of this section, may apply to the

department for a one-year waiver from such requirements for a specific cosmetic product or personal care product, and upon such proof that the manufacturer has taken steps to reduce the presence of 1,4-dioxane in that product and is unable to comply with the requirements of this section. Thereafter, a manufacturer may apply for one additional one-year waiver for such product, upon its satisfaction of such similar proof.

§ 3. 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 37-0115 or any rule or regulation promulgated pursuant hereto, shall be liable for a civil penalty not to exceed one thousand 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 violation be liable to the people of the state for a civil penalty not to exceed two thousand five hundred dollars for each day during which such violation continues.

§ 4. This act shall take effect January 1, 2022. 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.