

# STATE OF NEW YORK

4389--B

2019-2020 Regular Sessions

## IN SENATE

March 11, 2019

Introduced by Sens. KAMINSKY, BOYLE, BROOKS, CARLUCCI, COMRIE, GAUGHRAN, GOUNARDES, HARCKHAM, HOYLMAN, KAPLAN, KRUEGER, LAVALLE, LIU, SALAZAR, SERRANO, SKOUFIS, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 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:

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

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

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

15 6. A manufacturer of a household cleansing product, otherwise subject  
16 to the requirements of subdivision four of this section, may apply to  
17 the department for a one-year waiver from such requirements for a  
18 specific household cleansing product, upon such proof that the manufac-

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

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1 turer has taken steps to reduce the presence of 1,4-dioxane in that  
2 product and is unable to comply with the requirements of subdivision  
3 four of this section. Thereafter, a manufacturer may apply for one  
4 additional one-year waiver for such product, upon such the satisfaction  
5 of such similar proof.

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

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

12 § 37-0115. Prohibition of cosmetic products and personal care products  
13 containing 1,4-dioxane.

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

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

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

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

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

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

51 7. A manufacturer of a cosmetic product or personal care product,  
52 otherwise subject to the requirements of this section, may apply to the  
53 department for a one-year waiver from such requirements for a specific  
54 cosmetic product or personal care product, and upon such proof that the  
55 manufacturer has taken steps to reduce the presence of 1,4-dioxane in  
56 that product and is unable to comply with the requirements of this

1 section. Thereafter, a manufacturer may apply for one additional one-  
2 year waiver for such product, upon its satisfaction of such similar  
3 proof.

4 § 3. Section 71-3703 of the environmental conservation law is amended  
5 by adding a new subdivision 4 to read as follows:

6 4. Any person who violates any of the provisions of, or who fails to  
7 perform any duty imposed by section 37-0115 or any rule or regulation  
8 promulgated pursuant hereto, shall be liable for a civil penalty not to  
9 exceed one thousand dollars for each day during which such violation  
10 continues, and in addition thereto, such person may be enjoined from  
11 continuing such violation. Such person shall for a second violation be  
12 liable to the people of the state for a civil penalty not to exceed two  
13 thousand five hundred dollars for each day during which such violation  
14 continues.

15 § 4. This act shall take effect January 1, 2022. Effective immediate-  
16 ly, the addition, amendment and/or repeal of any rule or regulation  
17 necessary for the implementation of this act on its effective date are  
18 authorized to be made and completed on or before such effective date.