STATE OF NEW YORK

4459

2019-2020 Regular Sessions

IN ASSEMBLY

February 4, 2019

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to prohibiting the sale of cosmetics or cleaning products containing 1,4-Dioxane

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 of cosmetics and cleaning products containing 1,4-Dioxane.

1. No person shall sell or offer for sale any cosmetics or cleaning products containing 1,4-Dioxane within New York state.

2. A manufacturer of a product prohibited to be sold or offered for sale pursuant to this section shall:

a. not replace 1,4-Dioxane with another chemical compound that has been scientifically established to be a known human carcinogen as classified by the United States Environmental Protection Agency, a developmental toxin, an endocrine disrupter or a reproductive toxin;

b. use the least toxic alternative chemical compound to replace 1,4-Dioxane;

c. provide, to the department prior to the manufacture of such product, information on such least toxic alternative chemical compound; and

d. not manufacture such product until the department shall have certified such least toxic alternative chemical compound to replace 1,4-Dioxane.

3. The department is authorized to promulgate such rules and regulations as it shall deem necessary to implement the provisions of this section.

4. a. A manufacturer of a product that is subject to the provisions of subdivision one of this section, may apply to the department for a waiv-

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

LBD03419-01-9

er of the requirements of such subdivision for a period of one year, upon proof that there are no available alternatives to 1,4-Dioxane in a cosmetics or cleaning product that is subject to the provisions of subdivision one of this section. After the granting of such a waiver to a manufacturer, it may thereafter apply for one additional one year waiver. An application for a waiver shall include, but is not limited to:

(1) An alternatives assessment demonstrating that removal of 1,4-Dioxane from a given cosmetics or cleaning product is not financially or technically feasible; and

(2) A quantitative exposure assessment demonstrating that use of the product is not reasonably anticipated to result in exposure to 1,4-Dioxane.

b. An alternatives assessment or quantitative exposure assessment submitted under this subdivision must be conducted in a manner consistent with any guidance and frameworks for such assessments provided by the department and as established by the United States Environmental Protection Agency and the Interstate Chemicals Clearinghouse.

§ 2. Section 37-0101 of the environmental conservation law is amended by adding two new subdivisions 7 and 8 to read as follows:

7. "Cosmetics" include, but are not limited to, merchandise, other than soap, that is intended to be rubbed, poured, sprinkled, or sprayed onto, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance of the human body or any part thereof.

8. "Cleaning products" include, but are not limited to, household cleansing products as defined in section 35-0103 of this chapter, disinfectants, cleaning agents, antibacterial soaps, hand soaps, bar soaps, liquid soaps, baby soaps, hand sanitizers, skin purifying wipes, body washes, facial and body cleansers, shampoos, and conditioners.

§ 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 of this chapter 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 December 31, 2020.