STATE OF NEW YORK

4739

2019-2020 Regular Sessions

IN ASSEMBLY

February 5, 2019

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

AN ACT to amend the environmental conservation law, in relation to the use of perfluoroalkyl and polyfluoroalkyl chemicals in food packaging

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

Section 1. Subdivision 2 of section 37-0203 of the environmental conservation law, as added by chapter 286 of the laws of 1990, is amended and two new subdivisions 5 and 6 are added to read as follows:

2. "Manufacturer" shall mean a person, firm, association, partnership**,** **organization, joint venture** or corporation, who or which makes containers to be used to package products.

5. "Food package" means a package or packaging component that is intended for direct food contact and is comprised, in substantial part, of paper, paperboard, or other materials originally derived from plant fibers.

6. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS chemicals" means, for the purposes of food packaging, a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

§ 2. Sections 37-0209, 37-0211 and 37-0213 of the environmental conservation law are renumbered sections 37-0211, 37-0213 and 37-0215.

§ 3. The environmental conservation law is amended by adding a new section 37-0209 to read as follows:

§ 37-0209. Prohibition on the use of perfluoroalkyl and polyfluoroalkyl chemicals in food packaging.

No person may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state food packaging in which perfluoroalkyl and polyfluoroalkyl (PFAS) chemicals are present in any amount.

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

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§ 4. Subdivision 2 of section 37-0211 of the environmental conservation law, as added by chapter 286 of the laws of 1990, such section as renumbered by section two of this act, is amended to read as follows:

2. **(a)** No manufacturer or distributor of a product shall be held in violation of this title who can show that, in the purchase of a package or packaging component, he or she relied in good faith on the written assurance of the manufacturer of such packaging or packaging component that such packaging or packaging component met the requirements of this title. Such written assurance shall take the form of a certificate of compliance stating that a package or packaging component is in compliance with the requirements of this title, provided however, where compliance is achieved under an exemption provided in subdivision two or three of section 37-0207 of this title, the certificate shall state the specific basis upon which the exemption is claimed. The certificate of compliance shall be signed by an authorized official of the manufacturing or distributing company.

(b) With respect to the prohibition on the use of perfluoroalkyl and polyfluoroalkyl chemicals in food packaging as provided in section 37-0209 of this title, a manufacturer shall develop a compliance certificate by the date of a prohibition taking effect under such section.

(c) If the manufacturer or supplier of the package or packaging component reformulates or creates a new package or packaging component, the manufacturer shall develop an amended or new certificate of compliance for the reformulated or new package or packaging component.

§ 5. This act shall take effect immediately. 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 and directed to be made and completed on or before such effective date.