

# STATE OF NEW YORK

6295--A

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2019-2020 Regular Sessions

## 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:

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.

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

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

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

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

16 § 37-0115. Prohibition of cosmetic products and personal care products  
17 containing 1,4-dioxane.

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

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

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

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

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

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

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

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

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

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

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