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Introduced by Sens. WEBB, RIVERA, ADDABBO, BASKIN, BRISPORT, BROUK, BYNOE, CLEARE, COMRIE, FAHY, FERNANDEZ, GIANARIS, GONZALEZ, GOUNARDES, HARCKHAM, HINCHEY, JACKSON, KAVANAGH, KRUEGER, LIU, MARTINS, MAY, MAYER, OBERACKER, PARKER, PERSAUD, RAMOS, C. RYAN, SALAZAR, SANDERS, SEPULVEDA, SERRANO, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

AN ACT to amend the environmental conservation law, in relation to the regulation of ingredients in personal care products and cosmetics

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

Section 1. Short title. This act shall be known and may be cited as the "beauty justice act".

§ 2. Legislative findings and intent. Thousands of chemicals are used in cosmetics and personal care products. Some of these chemicals are associated with asthma, allergies, hormone disruption, neurodevelopmental problems, infertility, even cancer. Exposure to personal care and cosmetic products typically begins in infancy, with products such as baby shampoo, lotion, and diaper cream, and continues throughout their lifespan. According to the Environmental Working Group, "on average, women use 12 personal care products a day, exposing themselves to 168 chemical ingredients. Men use six, exposing themselves to 85 unique chemicals."

Further, The National Institutes of Health (NIH) conducted an eight-year study of over 46,000 women who used permanent hair dyes and straighteners. They found that women of color who regularly used dyes

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

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and straighteners had a 45 percent higher breast cancer risk. White women faced a 7 percent higher breast cancer risk.

European Union countries prohibit (with few exceptions) substances classified as carcinogenic, mutagenic, or toxic for reproduction in cosmetic products. The Canadian government regularly updates a Cosmetic Ingredient Hotlist that includes hundreds of chemicals and contaminants prohibited and restricted from cosmetics, such as formaldehyde, triclosan, and more. Furthermore, over 40 countries including Japan, Cambodia, and Vietnam, have stricter restrictions on chemicals in personal care products than does the United States.

Moreover, regarding the safety of using personal care products, the federal Modernization of Cosmetics Regulation Act of 2022 is the first federal law to significantly update the Food, Drug, and Cosmetic Act. However, the Act fails to meaningfully restrict the use of harmful chemicals in personal care/cosmetic products, and explicitly grants states the ability to enact such restrictions.

Therefore, the legislature finds and declares that federal restrictions of harmful chemicals in personal care and cosmetic products are inadequate to educate and protect consumers and salon workers, and that it shall be the policy of the state to restrict chemicals that may harm the health of New Yorkers during production, use, or disposal of personal care products and cosmetic products.

§ 3. Article 37 of the environmental conservation law is amended by adding a new title 12 to read as follows:

TITLE XII

BEAUTY JUSTICE ACT

Section 37-1201. Definitions.

37-1203. Sales prohibition.

37-1205. Identification of safer alternatives.

37-1207. Regulations.

§ 37-1201. Definitions.

As used in this title, unless the context requires otherwise:

1. "Cosmetic product" shall mean a cosmetic product as defined in section 37-0117 of this article.

2. "Intentionally added ingredient" shall mean any element or compound that a manufacturer has intentionally added to a personal care product, and which has a functional or technical effect in the finished product, including, but not limited to, the components of intentionally added fragrance, flavoring and colorants, and the intentional breakdown products of an added element or compound that also has a functional or technical effect on the finished product.

3. "Manufacturer" shall mean any person, firm, association, partnership, limited liability company, or corporation which produces, prepares, formulates, or compounds a personal care product, or whose brand name is affixed to such product. In the case of a personal care product imported into the United States, "manufacturer" shall mean the importer or first domestic distributor of the product if the entity that manufactures the product or whose brand name is affixed to the product does not have a presence in the United States.

4. "Personal care product" shall mean a personal care product as defined in section 37-0117 of this article.

5. "Restricted substance" shall mean the following:

(a) the following heavy metals and any compounds containing the following heavy metals: arsenic (CAS 7440-38-2), cadmium (CAS 7440-43-9), cadmium compounds, chromium (CAS 7440-47-3), lead (CAS 7439-92-1), lead compounds, and nickel (CAS 7440-02-0);

(b) isobutylparaben (CAS 4247-02-3) and isopropylparaben (CAS 4191-73-5);
(c) ortho-phthalates and their esters;
(d) per- and polyfluoroalkyl substances, as defined in subdivision seven of section 37-0101 of this article, detected by total organic fluorine analysis;
(e) formaldehyde (CAS 50-00-0) and formaldehyde releasers such as: paraformaldehyde (CAS 30525-89-4), quaternium-15 (CAS 51229-78-8), and methylene glycol (CAS 463-57-0), provided that in the case of any formaldehyde releaser, treatment as a restricted substance shall be subject to subdivision two of section 37-1203 of this title;
(f) benzophenone (CAS 119-61-9);
(g) benzene (CAS 71-43-2), ethylene oxide (CAS 75-21-8), toluene (CAS 108-88-3), naphthalene (CAS 91-20-3), nickel (metallic) (CAS 7440-02-0), styrene (CAS 100-42-5), and xylene (CAS 1330-20-7);
(h) asbestos (CAS 1332-21-4);
(i) cyclotetrasiloxane (CAS 556-67-2);
(j) m-phenylenediamine (CAS 108-45-2) and o-phenylenediamine (CAS 95-54-5);
(k) triclosan (CAS 3380-34-5);
(l) diethanolamine (CAS 111-42-2);
(m) Dibutyl phthalate (CAS 84-72-2);
(n) Diethylhexyl phthalate (CAS 117-81-7);
(o) Lily aldehyde (CAS 80-54-6);
(p) Acetaldehyde (CAS 75-07-0);
(q) Cychlohexylamine (CAS 108-91-8);
(r) Phytonadione (CAS 84-80-0);
(s) Sodium perborate (CAS 15120-21-5);
(t) Trichloroacetic acid (CAS 76-03-9);
(u) Tricresyl phosphate (CAS 1330-78-5);
(v) Vinyl acetate (CAS 108-05-4);
(w) 2-Chloracetamide (CAS 79-07-2);
(x) Allyl isothiocyanate (CAS 57-06-7);
(y) Anthraquinone (CAS 84-65-1);
(z) Malachite green (CAS 569-64-2);
(aa) Oil from seeds of Laurus nobilis L. (CAS 84603-73-6);
(bb) Pyrogallol (CAS 87-66-1);
(cc) C.I disperse blue 1 (CAS 2475-45-8);
(dd) Trisodium nitrilotriacetate (CAS 5064-31-3);
(ee) The following boron substances:
(i) Perboric acids:
A. Sodium salt (CAS 11138-47-9);
B. Sodium salt, monohydrate (CAS 12040-72-1);
C. Sodium perborate nonohydrate (CAS 10332-33-9);
(ii) Boric acid (CAS 10043-35-3 and 11113-50-1);
(iii) Borates, tetraborates, octaborates, and boric acid salts and esters, including all of the following:
A. Disodium octaborate anhydrous (CAS 12008-41-2);
B. Disodium octaborate tetrahydrate (CAS 12280-03-4);
C. 2-Aminoethanol, monoester with boric acid (CAS 10377-81-8);
D. 2-Hydroxypropyl, ammonium dihydrogen orthoborate (CAS 68003-13-4);
E. Potassium borate, boric acid potassium salt (CAS 12712-38-8);
F. Trioctyldodecyl borate;
G. Zinc borate (CAS 1332-07-6);
H. Sodium borate, disodium tetraborate anhydrous; boric acid, sodium salt (CAS 1330-43-4);

I. Tetraboron disodium heptaoxide, hydrate (CAS 12267-73-1);
J. Orthoboric acid, sodium salt (CAS 13840-56-7);
K. Disodium tetraborate decahydrate; borax decahydrate (CAS 1303-96-4);
L. Disodium tetraborate pentahydrate; borax pentahydrate (CAS 12179-04-3);
(ff) C.I. disperse blue 3 (CAS 2475-46-9);
(gg) Basic green 1 (CAS 633-03-4);
(hh) Basic Blue 7 (CAS 2390-60-5);
(ii) 3(or 5) - ((4-(benzylmethylamino) phenyl) azo) -1, 2 - (or1, 4) - dimethyl-1H-1, 2, 4-triazolium and its salts (CAS 89959-98-8 and 12221-69-1);
(jj) Basic Violet 4 (CAS 2390-59-2);
(kk) Basic blue 3 (CAS 33203-82-6); and
(ll) Basic blue 9 (CAS 61-73-4).

§ 37-1203. Sales prohibition.

1. Effective January first, two thousand thirty, no person shall sell or offer for sale in this state a personal care product or cosmetic product containing: (a) a restricted substance as an intentionally added ingredient in any amount, or (b) lead (CAS 7439-92-1) or lead compounds at or above a level that the department shall establish in regulation that is the lowest level that can feasibly be achieved, provided that the department shall review such level every five years to determine whether it should be lowered.

2. (a) The department's determinations regarding chemicals that release formaldehyde, pursuant to paragraph (e) of subdivision five of section 37-1201 of this title, shall be adopted by regulation. The department shall identify a list of chemicals used in cosmetic products and personal care products that release formaldehyde that may be deemed restricted substances and subject to the restrictions of subdivision one of this section. In establishing such list, the department should consider: (i) estimated prevalence of use; (ii) potential to reduce disproportionate exposure; and (iii) other information deemed relevant by the department.

(b) The department may identify for restriction an initial set of no more than ten of the listed chemicals used in personal care products and cosmetic products that release formaldehyde. Any initial classification as restricted substances shall take effect one year after the department's adoption of regulations required by this subdivision and be subject to the restrictions of subdivision one of this section.

(c) Classification as restricted substances on the remaining listed chemicals used in personal care products and cosmetic products that release formaldehyde may take effect two years after the department's adoption of regulations required by this subdivision and shall be subject to the restrictions of subdivision one of this section.

(d) The department may conduct additional rulemaking activities to develop supplemental lists of chemicals that release formaldehyde and adopt additional restrictions necessary to protect the health and safety of product users.

3. (a) No person that sells or offers for sale any personal care product or cosmetic product shall be held in violation of this section if they can show that they relied in good faith on the written assurance of the manufacturer that such personal care product or cosmetic product meets the requirements of this title. Such written assurance shall take the form of a certificate of compliance stating that the personal care product or cosmetic product is in compliance with the requirements of

this title. The certificate of compliance shall be signed by an authorized official of the manufacturer.

(b) In addition to any other applicable penalties, it shall be a violation of this section to provide a certificate of compliance as contemplated by this subdivision when the applicable personal care product or cosmetic product does not satisfy the limitations on the presence of restricted substances set forth in this title.

§ 37-1205. Identification of safer alternatives.

By January first, two thousand twenty-nine, the department, in consultation with the department of health, shall make use of existing information to identify and assess the hazards of chemicals or chemical classes that can provide the same or similar function in personal care products and cosmetic products as the chemicals or chemical classes listed in section 37-1201 of this title and that can impact vulnerable populations. In doing so they may consult with the New York state pollution prevention institute and the interstate chemicals clearinghouse. The department shall make such information publicly available.

§ 37-1207. Regulations.

Within one year of the effective date of this section, the department shall adopt rules and regulations necessary for the implementation of this title. When adopting such rules and regulations, the department shall consider:

(a) relevant research;

(b) laws and policies in other states; and

(c) input from relevant stakeholders including but not limited to representatives from independent cosmetologists, small businesses offering cosmetology services, such as beauty salons, manufacturers of cosmetic products and personal care products, and trade associations that represent manufacturers of cosmetic products and personal care products.

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

8. Any person who violates any of the provisions of, or who fails to perform any duty imposed by, section 37-1203 of this chapter or any rule or regulation promulgated pursuant thereto, 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.

§ 5. Severability. If any provision of this act, or any application of any provision of this act, is held to be invalid, or to violate or be inconsistent with any federal law or regulation, that shall not affect the validity or effectiveness of any other provision of this act, or of any other application of any provision of this act, which can be given effect without that provision or application; and to that end, the provisions and applications of this act are severable.

§ 6. This act shall take effect one year after it shall have become a law. 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.