

STATE OF NEW YORK

7594

2025-2026 Regular Sessions

IN ASSEMBLY

April 1, 2025

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

AN ACT to amend the environmental conservation law, in relation to the regulation of toxic substances in playground surfacing materials

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

1 Section 1. The environmental conservation law is amended by adding a
2 new section 37-0123 to read as follows:

3 § 37-0123. Regulation of toxic substances in playground surfacing materials.
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5 1. As used in this section, the following terms shall have the following meanings:
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7 (a) "Playground surfacing materials" means products, materials, or substances used or installed on the ground surface of a playground.
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9 (b) "Playground" means an outdoor recreation area for children equipped with one or more play structures.
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11 (c) "Manufacturer" means the person that manufactures a product or whose brand name is affixed to the product. In the case of a product imported into the United States, "manufacturer" includes the importer or first domestic distributor of the product if the person that manufactured or assembled the product or whose brand name is affixed to the product does not have a presence in the United States.
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15 (d) "PFAS" means perfluoroalkyl and polyfluoroalkyl substances and includes any member of the class of fluorinated organic chemicals containing at least one fully flourished carbon atom.
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19 (e) "PAHs" means polycyclic aromatic hydrocarbons.
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21 (f) "Intentionally added" means a chemical in a product that serves an intended function or technical effect in the product or product component, including PFAS within intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product or product component.
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EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD08124-03-5

1 2. Commencing on January first, two thousand twenty-seven, no person
2 shall sell or offer for sale in this state any playground surfacing
3 material that contains PFAS, PAHs, or lead:

4 (a) that has been intentionally added; or

5 (b) at or above a level that the department shall establish by regu-
6 lation that is the lowest level that can feasibly be achieved; provided,
7 however, that the department shall review such levels at least every
8 five years to determine whether they should be lowered; provided, howev-
9 er, that in no event shall such level for lead be more than ninety parts
10 per million.

11 3. (a) A manufacturer of playground surfacing materials sold into
12 the state shall provide persons that offer the product for sale in
13 the state with a certificate of compliance. The certificate of compli-
14 ance shall provide assurance, at a minimum, that the product is in
15 compliance with the requirements of subdivision two of this section. Any
16 certificate of compliance provided under this section shall be signed by
17 an authorized official of the manufacturer.

18 (b) In addition to any other applicable penalties, it shall be a
19 violation of this title to provide a certificate of compliance under
20 paragraph (a) of this subdivision when a product is knowingly in
21 violation of the requirements of this section.

22 4. If the department has reason to believe playground surfacing mate-
23 rials being sold or offered for sale that have not been installed in a
24 playground are not in compliance with the requirements of subdivision
25 two of this section, the department shall notify the manufacturer of the
26 playground surfacing materials, who shall, within thirty days:

27 (a) provide the department with independent, third-party laboratory
28 test results demonstrating that the playground surfacing materials are
29 in compliance with subdivision two of this section; or

30 (b) notify persons who sell the playground surfacing materials in this
31 state that the sale of the playground surfacing materials is prohibited
32 in this state and provide the department with a list of the names and
33 addresses of those notified.

34 5. A retailer of a product, who is not also the manufacturer of the
35 product, shall not be held in violation of subdivision two of this
36 section if it can show that such retailer relied in good faith on the
37 certificate of compliance provided for in subdivision three of this
38 section.

39 6. No part of this title shall be considered to apply to, require the
40 recall of, or require reimbursement for, playground surfacing materials
41 that have been sold or offered for sale prior to January first, two
42 thousand twenty-seven.

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

45 8. Any person who violates any of the provisions of, or who fails to
46 perform any duty imposed by section 37-0123 of this chapter or any rule
47 or regulation promulgated pursuant thereto, shall be liable for a civil
48 penalty not to exceed one thousand dollars for each day, and in addition
49 thereto, such person may be enjoined from continuing such violation.
50 Such person shall for a second violation be liable to the people of the
51 state for a civil penalty not to exceed two thousand five hundred
52 dollars.

53 § 3. This act shall take effect on the one hundred eightieth day after
54 it shall have become a law.