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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 -- recommended 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:

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

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

13 Further, The National Institutes of Health (NIH) conducted an eight-
14 year study of over 46,000 women who used permanent hair dyes and
15 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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1 and straighteners had a 45 percent higher breast cancer risk. White
2 women faced a 7 percent higher breast cancer risk.

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

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

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

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

25 TITLE XII

26 BEAUTY JUSTICE ACT

27 Section 37-1201. Definitions.

28 37-1203. Sales prohibition.

29 37-1205. Identification of safer alternatives.

30 37-1207. Regulations.

31 § 37-1201. Definitions.

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

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

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

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

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

52 5. "Restricted substance" shall mean the following:

53 (a) the following heavy metals and any compounds containing the
54 following heavy metals: arsenic (CAS 7440-38-2), cadmium (CAS
55 7440-43-9), cadmium compounds, chromium (CAS 7440-47-3), lead (CAS
56 7439-92-1), lead compounds, and nickel (CAS 7440-02-0);

1 (b) isobutylparaben (CAS 4247-02-3) and isopropylparaben (CAS
2 4191-73-5);
3 (c) ortho-phthalates and their esters;
4 (d) per- and polyfluoroalkyl substances, as defined in subdivision
5 seven of section 37-0101 of this article, detected by total organic
6 fluorine analysis;
7 (e) formaldehyde (CAS 50-00-0) and formaldehyde releasers such as:
8 paraformaldehyde (CAS 30525-89-4), quaternium-15 (CAS 51229-78-8), and
9 methylene glycol (CAS 463-57-0), provided that in the case of any
10 formaldehyde releaser, treatment as a restricted substance shall be
11 subject to subdivision two of section 37-1203 of this title;
12 (f) benzophenone (CAS 119-61-9);
13 (g) benzene (CAS 71-43-2), ethylene oxide (CAS 75-21-8), toluene (CAS
14 108-88-3), naphthalene (CAS 91-20-3), nickel (metallic) (CAS 7440-02-0),
15 styrene (CAS 100-42-5), and xylene (CAS 1330-20-7);
16 (h) asbestos (CAS 1332-21-4);
17 (i) cyclotetrasiloxane (CAS 556-67-2);
18 (j) m-phenylenediamine (CAS 108-45-2) and o-phenylenediamine (CAS
19 95-54-5);
20 (k) triclosan (CAS 3380-34-5);
21 (l) diethanolamine (CAS 111-42-2);
22 (m) Dibutyl phthalate (CAS 84-72-2);
23 (n) Diethylhexyl phthalate (CAS 117-81-7);
24 (o) Lily aldehyde (CAS 80-54-6);
25 (p) Acetaldehyde (CAS 75-07-0);
26 (q) Cyclohexylamine (CAS 108-91-8);
27 (r) Phytonadione (CAS 84-80-0);
28 (s) Sodium perborate (CAS 15120-21-5);
29 (t) Trichloroacetic acid (CAS 76-03-9);
30 (u) Tricresyl phosphate (CAS 1330-78-5);
31 (v) Vinyl acetate (CAS 108-05-4);
32 (w) 2-Chloracetamide (CAS 79-07-2);
33 (x) Allyl isothiocyanate (CAS 57-06-7);
34 (y) Anthraquinone (CAS 84-65-1);
35 (z) Malachite green (CAS 569-64-2);
36 (aa) Oil from seeds of Laurus nobilis L. (CAS 84603-73-6);
37 (bb) Pyrogallol (CAS 87-66-1);
38 (cc) C.I disperse blue 1 (CAS 2475-45-8);
39 (dd) Trisodium nitrilotriacetate (CAS 5064-31-3);
40 (ee) The following boron substances:
41 (i) Perboric acids:
42 A. Sodium salt (CAS 11138-47-9);
43 B. Sodium salt, monohydrate (CAS 12040-72-1);
44 C. Sodium perborate nonohydrate (CAS 10332-33-9);
45 (ii) Boric acid (CAS 10043-35-3 and 11113-50-1);
46 (iii) Borates, tetraborates, octaborates, and boric acid salts and
47 esters, including all of the following:
48 A. Disodium octaborate anhydrous (CAS 12008-41-2);
49 B. Disodium octaborate tetrahydrate (CAS 12280-03-4);
50 C. 2-Aminoethanol, monoester with boric acid (CAS 10377-81-8);
51 D. 2-Hydroxypropyl, ammonium dihydrogen orthoborate (CAS 68003-13-4);
52 E. Potassium borate, boric acid potassium salt (CAS 12712-38-8);
53 F. Trioctyldodecyl borate;
54 G. Zinc borate (CAS 1332-07-6);
55 H. Sodium borate, disodium tetraborate anhydrous; boric acid, sodium
56 salt (CAS 1330-43-4);

1 I. Tetraboron disodium heptaoxide, hydrate (CAS 12267-73-1);

2 J. Orthoboric acid, sodium salt (CAS 13840-56-7);

3 K. Disodium tetraborate decahydrate; borax decahydrate (CAS
4 1303-96-4);

5 L. Disodium tetraborate pentahydrate; borax pentahydrate (CAS
6 12179-04-3);

7 (ff) C.I. disperse blue 3 (CAS 2475-46-9);

8 (gg) Basic green 1 (CAS 633-03-4);

9 (hh) Basic Blue 7 (CAS 2390-60-5);

10 (ii) 3(or 5) - ((4-(benzylmethylamino) phenyl) azo) -1, 2 - (or1, 4) -
11 dimethyl-1H-1, 2, 4-triazolium and its salts (CAS 89959-98-8 and
12 12221-69-1);

13 (jj) Basic Violet 4 (CAS 2390-59-2);

14 (kk) Basic blue 3 (CAS 33203-82-6); and

15 (ll) Basic blue 9 (CAS 61-73-4).

16 § 37-1203. Sales prohibition.

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

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

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

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

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

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

1 this title. The certificate of compliance shall be signed by an author-
2 ized official of the manufacturer.

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

8 § 37-1205. Identification of safer alternatives.

9 By January first, two thousand twenty-nine, the department, in consul-
10 tation with the department of health, shall make use of existing infor-
11 mation to identify and assess the hazards of chemicals or chemical
12 classes that can provide the same or similar function in personal care
13 products and cosmetic products as the chemicals or chemical classes
14 listed in section 37-1201 of this title and that can impact vulnerable
15 populations. In doing so they may consult with the New York state
16 pollution prevention institute and the interstate chemicals clearing-
17 house. The department shall make such information publicly available.

18 § 37-1207. Regulations.

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

23 (a) relevant research;

24 (b) laws and policies in other states; and

25 (c) input from relevant stakeholders including but not limited to
26 representatives from independent cosmetologists, small businesses offer-
27 ing cosmetology services, such as beauty salons, manufacturers of
28 cosmetic products and personal care products, and trade associations
29 that represent manufacturers of cosmetic products and personal care
30 products.

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

33 8. Any person who violates any of the provisions of, or who fails to
34 perform any duty imposed by, section 37-1203 of this chapter or any
35 rule or regulation promulgated pursuant thereto, shall be liable for a
36 civil penalty not to exceed one thousand dollars for each day during
37 which such violation continues, and in addition thereto, such
38 person may be enjoined from continuing such violation. Such person shall
39 for a second violation be liable to the people of the state for a
40 civil penalty not to exceed two thousand five hundred dollars for each
41 day during which such violation continues.

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

49 § 6. This act shall take effect one year after it shall have become a
50 law. Effective immediately, the addition, amendment and/or repeal of any
51 rule or regulation necessary for the implementation of this act on its
52 effective date are authorized to be made and completed on or before such
53 effective date.