**§ 37-0117. Prohibition of cosmetic products and personal care products containing 1,4-dioxane or mercury.**

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

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

3. No person shall sell or offer for sale any cosmetic product containing 1,4-dioxane, other than such trace concentrations, that exceeds ten parts per million by December thirty-first, two thousand twenty-two.

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

5. No later then May first, two thousand twenty-five, and every two years thereafter, the department, in consultation with the department of

health, shall review such trace concentration thresholds and determine whether such concentrations shall be lowered to better protect human health and the environment.

6. The department is authorized to promulgate such rules and regulations as it shall deem necessary to implement the provisions of this section, including rules and regulations with respect to any allowable trace concentrations.

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

8. No person shall sell or offer for sale any cosmetic product or personal care product containing mercury, other than in trace amounts identified by the department, in consultation with the department of health, in regulations. Any such trace amounts shall be consistent with the permissible concentrations of trace amounts allowed by the food and drug administration as (a) unavoidable under conditions of good manufacturing practice, or (b) necessary for use as a preservative in the absence of an effective and safe nonmercurial preservative substitute in cosmetic products intended for use only in the area of the eye. For the purposes of this subdivision "mercury" shall mean elemental mercury Hg, mercuric iodide, mercury oxide, mercurous chloride, ethyl mercury, phenyl mercuric salts, ammoniated mercury, amide chloride of mercury, mercury sulfide or cinnabaris, or mercury iodide.