

AMENDED IN ASSEMBLY APRIL 22, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1699**

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**Introduced by Assembly Member Bloom**  
**(~~Coauthor: Assembly Member Nestande~~)**  
*(Coauthors: Assembly Members Nestande and Stone)*

February 13, 2014

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An act to add Chapter 5.9 (commencing with Section 42360) to Part 3 of Division 30 of the Public Resources Code, relating to waste management.

LEGISLATIVE COUNSEL'S DIGEST

AB 1699, as amended, Bloom. Waste management: microplastics.

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) prohibits any person, in the course of doing business, from knowingly and intentionally exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without giving a specified warning, or from discharging or releasing such a chemical into any source of drinking water, except as specified. Existing law prohibits the sale of expanded polystyrene packaging material by a wholesaler or manufacturer. Existing law prohibits a person from selling a plastic product in this state that is labeled with the term “compostable,” “home compostable,” or “marine degradable” unless, at the time of sale, the plastic product meets the applicable American Society for Testing and Materials standard specification.

This bill would prohibit, after January 1, 2016, a person in the course of doing business, as defined, from selling or offering for promotional

purposes in this state any ~~cleaning product, personal care product, or both~~ *personal care product* containing microplastic, as specified. The bill would provide an exception to the above provision for the sale or promotional offer of a product containing less than 1 part per million (ppm) by weight of microplastic, as provided.

The bill would make a violator liable for a civil penalty not to exceed \$2,500 per day for each violation. The bill would authorize the penalty to be assessed and recovered in a civil action brought in any court of competent jurisdiction by the Attorney General or local officials, as provided. *The bill would require the civil penalties collected in an action brought pursuant to the act to be retained by the office of the Attorney General or local official who brought the action.*

~~The bill would require the Department of Resources Recycling and Recovery to administer and implement these provisions and would authorize the department to adopt and modify regulations as necessary to further the purposes of this act.~~

~~The bill would establish the Plastic Pollution Fund in the State Treasury. The bill would authorize the department to expend the funds, upon appropriation by the Legislature, to implement and administer the act by, among other things, providing grants to local governments or other entities. The bill would require 50% of all civil penalties collected pursuant to the act, and any interest earned on the money in the fund, to be deposited into the fund. The bill would require 50% of all civil penalties collected in an action pursuant to the act to be paid to the Attorney General or local official who brought the action.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 5.9 (commencing with Section 42360)  
2 is added to Part 3 of Division 30 of the Public Resources Code, to  
3 read:

4  
5 CHAPTER 5.9. MICROPLASTIC NUISANCE PREVENTION LAW

6  
7 42360. The Legislature finds and declares all of the following:  
8 (a) Plastic does not biodegrade like other organic materials, but,  
9 upon exposure to the elements photodegrades into smaller pieces

1 causing land and water pollution that is virtually impossible to  
2 remediate.

3 (b) Plastic pollution is the dominant type of anthropogenic debris  
4 found throughout the marine environment.

5 (c) Plastic pollution is an environmental and human health  
6 hazard and a public nuisance.

7 (d) Consumer personal care products such as facial scrubs,  
8 soaps, and toothpaste increasingly contain thousands of  
9 microplastic particles, ranging from 50 to 500 microns, which are  
10 flushed down drains as part of their intended use.

11 (e) Microplastics in personal care products are not recoverable  
12 through ordinary wastewater treatment and so are released into  
13 the environment.

14 (f) Microplastics of the size found in cleaning and personal care  
15 products are ingested by marine organisms.

16 (g) Microplastics attract other pollutants commonly present in  
17 the environment, many of which are recognized to have serious  
18 deleterious impacts on human health or the environment, including  
19 DDT, DDE, PCBs, and flame-retardants.

20 (h) Microplastics have been found in surface waters within the  
21 United States, as well as in fish, marine mammals, and reptiles,  
22 and in the digestive and circulatory systems of mussels and worms.

23 (i) PAHs, PCBs, and PBDEs from plastic transfer to fish tissue  
24 during digestion and bioaccumulate, resulting in liver damage.

25 (j) Fish that humans consume have been found to ingest  
26 microplastics.

27 (k) There are many biodegradable, natural alternatives to  
28 microplastics that are economically feasible, as evidenced by their  
29 current use in some consumer personal care products.

30 42361. As used in this chapter, the following terms have the  
31 following meanings:

32 (a) “Department” means the Department of Resources Recycling  
33 and Recovery.

34 ~~(b) “Cleaning products, personal care products, or both” means~~  
35 ~~mixtures and solutions used for bathing and cleaning, including,~~  
36 ~~but not limited to, hand and body soap, exfoliates, shampoos,~~  
37 ~~toothpastes, and scrubs.~~

38 (e)

39 (b) “Microplastic” means any plastic size 5 millimeter or less  
40 in all dimensions.

1     ~~(d)~~

2     (c) “Person” means an individual, trust, firm, joint stock  
3 company, corporation, company, partnership, limited liability  
4 company, and association.

5     (d) “*Personal care products*” means mixtures and solutions  
6 used for bathing and facial or body cleaning, including, but not  
7 limited to, hand and body soap, exfoliates, shampoos, toothpastes,  
8 and scrubs.

9     (e) “Person in the course of doing business” does not include  
10 any person employing fewer than 10 employees in his or her  
11 business; any city, county, or district or any department or agency  
12 thereof or the state or any department or agency thereof or the  
13 federal government or any department or agency thereof; or any  
14 entity in its operation of a public water system.

15     (f) “Plastic” means a synthetic material made from linking  
16 monomers through a chemical reaction to create a polymer chain  
17 that can be molded or extruded at high heat into various forms.  
18 Plastics can be made from many organic substances, including  
19 petroleum and natural gas.

20     42362. On or after January 1, 2016, a person in the course of  
21 doing business shall not sell or offer for promotional purposes in  
22 this state any ~~cleaning products, personal care products, or both~~  
23 *products* containing microplastic.

24     42363. Section 42362 shall not apply to any person in the  
25 course of doing business that sells or offers for promotional  
26 purposes a ~~cleaning product, personal care product, or both product~~  
27 containing microplastic in less than 1 part per million (ppm) by  
28 weight.

29     42364. (a) A person who violates or threatens to violate Section  
30 42362 may be enjoined in any court of competent jurisdiction.

31     (b) (1) A person who violates Section 42362 is liable for a civil  
32 penalty not to exceed two thousand five hundred dollars (\$2,500)  
33 per day for each violation in addition to any other penalty  
34 established by law. That civil penalty may be assessed and  
35 recovered in a civil action brought in any court of competent  
36 jurisdiction.

37     (2) In assessing the amount of a civil penalty for a violation of  
38 this chapter, the court shall consider all of the following:

39     (A) The nature and extent of the violation.

40     (B) The number of, and severity of, the violations.

1 (C) The economic effect of the penalty on the person.

2 (D) Whether the person took good faith measures to comply  
3 with this chapter and the time these measures were taken.

4 (E) The deterrent effect that the imposition of the penalty would  
5 have on both the person and the regulated community as a whole.

6 (F) Any other factor that justice may require.

7 (c) Actions pursuant to this section may be brought by the  
8 Attorney General in the name of the people of the state, by a district  
9 attorney, by a city attorney of a city having a population in excess  
10 of 750,000 persons, or, with the consent of the district attorney,  
11 by a city prosecutor in a city or city and county having a full-time  
12 city prosecutor.

13 ~~42365. The department shall administer and implement this~~  
14 ~~chapter. The department may adopt and modify regulations as~~  
15 ~~necessary to implement and further the purposes of this chapter.~~

16 ~~42366. (a) The Plastic Pollution Fund is hereby established in~~  
17 ~~the State Treasury. The department may expend the funds in the~~  
18 ~~Plastic Pollution Fund, upon appropriation by the Legislature, to~~  
19 ~~implement and administer this chapter by directly expending those~~  
20 ~~funds, by transferring those funds to other state agencies, or by~~  
21 ~~providing grants to local governments or other entities deemed~~  
22 ~~eligible by the department, including, but not limited to,~~  
23 ~~nongovernmental organizations and the California Conservation~~  
24 ~~Corps.~~

25 ~~(b) In addition to any other moneys that may be deposited in~~  
26 ~~the Plastic Pollution Fund, all of the following amounts shall be~~  
27 ~~deposited in the fund:~~

28 ~~(1) Fifty percent of all civil penalties collected pursuant to~~  
29 ~~Section 42364.~~

30 ~~(2) Any interest earned upon the money deposited into the~~  
31 ~~Plastic Pollution Fund.~~

32 ~~42367. Fifty percent of all~~*The* ~~civil penalties collected pursuant~~  
33 ~~to Section 42364 shall be paid to~~ *retained by* ~~the office of the city~~  
34 ~~attorney, city prosecutor, district attorney, or Attorney General,~~  
35 ~~whichever office brought the action.~~

36 42368. This chapter does not alter or diminish any legal  
37 obligation otherwise required in common law or by statute or  
38 regulation, and ~~nothing in this chapter shall~~ *does not* create or  
39 enlarge any defense in any action to enforce the legal obligation.

- 1 Penalties and sanctions imposed under this chapter shall be in
- 2 addition to any penalties or sanctions otherwise prescribed by law.

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