

AMENDED IN ASSEMBLY MAY 12, 2014
AMENDED IN ASSEMBLY APRIL 22, 2014
AMENDED IN ASSEMBLY MARCH 28, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1699

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

February 13, 2014

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~~, 2018, a person in the course of doing business, as defined, from selling or offering for

promotional purposes in this state any personal care product containing microplastic, as specified. The bill would ~~provide an exception to the above provision for~~ *exempt from this prohibition* 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.

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~~ *elements*, photodegrades into smaller
10 ~~pieces~~ *pieces*, causing land and water pollution that is virtually
11 impossible to remediate.

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

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

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

20 (e) Microplastics in personal care products are not recoverable
21 through ordinary wastewater treatment and so are released into
22 the environment.

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

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

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

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

12 (j) Fish that humans consume have been found to ingest
13 microplastics.

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

17 42361. As used in this chapter, the following terms have the
18 following meanings:

19 ~~(a) “Department” means the Department of Resources Recycling
20 and Recovery.~~

21 ~~(b)~~

22 (a) “Microplastic” means any plastic size 5 millimeter or less
23 in all dimensions.

24 ~~(c)~~

25 (b) “Person” means an individual, trust, firm, joint stock
26 company, corporation, company, partnership, limited liability
27 company, and association.

28 ~~(d)~~

29 (c) “Personal care products” means mixtures and solutions used
30 for bathing and facial or body cleaning, including, but not limited
31 to, hand and body soap, exfoliates, shampoos, toothpastes, and
32 scrubs.

33 ~~(e)~~

34 (d) “Person in the course of doing business” does not include
35 any person employing fewer than 10 employees in his or her
36 business; any city, county, or district or any department or agency
37 thereof or the state or any department or agency thereof or the
38 federal government or any department or agency thereof; or any
39 entity in its operation of a public water system.

40 ~~(f)~~

1 (e) “Plastic” means a synthetic material made from linking
2 monomers through a chemical reaction to create a polymer chain
3 that can be molded or extruded at high heat into various forms.
4 Plastics can be made from many organic substances, including
5 petroleum and natural gas.

6 42362. On or after January 1, ~~2016~~, 2018, a person in the course
7 of doing business shall not sell or offer for promotional purposes
8 in this state any personal care products containing microplastic.

9 42363. Section 42362 shall not apply to any person in the
10 course of doing business that sells or offers for promotional
11 purposes a personal care product containing microplastic in less
12 than 1 part per million (ppm) by weight.

13 42364. (a) A person who violates or threatens to violate Section
14 42362 may be enjoined in any court of competent jurisdiction.

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

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

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

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

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

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

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

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

31 (c) Actions pursuant to this section may be brought by the
32 Attorney General in the name of the people of the state, by a district
33 attorney, by a city attorney of a city having a population in excess
34 of 750,000 persons, or, with the consent of the district attorney,
35 by a city prosecutor in a city or city and county having a full-time
36 city prosecutor.

37 42367. The civil penalties collected pursuant to Section 42364
38 shall be retained by the office of the city attorney, city prosecutor,
39 district attorney, or Attorney General, whichever office brought
40 the action.

1 42368. This chapter does not alter or diminish any legal
2 obligation otherwise required in common law or by statute or
3 regulation, and this chapter does not create or enlarge any defense
4 in any action to enforce the legal obligation. Penalties and sanctions
5 imposed under this chapter shall be in addition to any penalties or
6 sanctions otherwise prescribed by law.

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