

AMENDED IN ASSEMBLY MAY 20, 2014

AMENDED IN ASSEMBLY MAY 12, 2014

AMENDED IN ASSEMBLY APRIL 22, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 1699**

**Introduced by Assembly Member Bloom  
(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, ~~2018~~ 2019, 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 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  
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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,  
10 causing land and water pollution that is virtually impossible to  
11 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 personal care products are  
2 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) “Microplastic” means any plastic size 5 millimeter or less  
20 in all dimensions.

21 (b) “Person” means an individual, trust, firm, joint stock  
22 company, corporation, company, partnership, limited liability  
23 company, and association.

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

28 (d) “Person in the course of doing business” does not include  
29 any person employing fewer than 10 employees in his or her  
30 business; any city, county, or district or any department or agency  
31 thereof or the state or any department or agency thereof or the  
32 federal government or any department or agency thereof; or any  
33 entity in its operation of a public water system.

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

1 42362. On or after January 1, ~~2018~~ 2019, a person in the course  
2 of doing business shall not sell or offer for promotional purposes  
3 in this state any personal care products containing microplastic.

4 42363. Section 42362 shall not apply to any person in the  
5 course of doing business that sells or offers for promotional  
6 purposes a personal care product containing microplastic in less  
7 than 1 part per million (ppm) by weight.

8 42364. (a) A person who violates or threatens to violate Section  
9 42362 may be enjoined in any court of competent jurisdiction.

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

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

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

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

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

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

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

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

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

32 42367. The civil penalties collected pursuant to Section 42364  
33 shall be retained by the office of the city attorney, city prosecutor,  
34 district attorney, or Attorney General, whichever office brought  
35 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 this chapter does not create or enlarge any defense  
39 in any action to enforce the legal obligation. Penalties and sanctions

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

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