

AMENDED IN SENATE JUNE 19, 2014  
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

**ASSEMBLY BILL**

**No. 1699**

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**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.~~  
*plastic microbeads.*

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, 2019, a ~~person in the course of doing business~~ *person*, as defined, from selling or offering for promotional purposes in this state any personal care product containing ~~microplastic~~ *plastic microbeads*, 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~~ *plastic microbeads*, 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~~ *PLASTIC MICROBEADS* NUISANCE  
6 PREVENTION LAW  
7

8 42360. The Legislature finds and declares all of the following:

9 (a) Plastic does not biodegrade like other organic materials, but,  
10 upon exposure to the elements, photodegrades into smaller pieces,  
11 causing land and water pollution that is virtually impossible to  
12 remediate.

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

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

17 (d) Consumer personal care products such as facial scrubs,  
18 soaps, and toothpaste increasingly contain thousands of

1 ~~microplastic~~ *plastic microbead* particles, ranging from 50 to 500  
2 microns, which are flushed down drains as part of their intended  
3 use.

4 (e) ~~Microplastics~~ *Plastic microbeads* in personal care products  
5 are not recoverable through ordinary wastewater treatment and so  
6 are released into the environment.

7 (f) ~~Microplastics~~ *Plastic microbeads* of the size found in  
8 personal care products are ingested by marine organisms.

9 (g) ~~Microplastics~~ *Plastic microbeads* attract other pollutants  
10 commonly present in the environment, many of which are  
11 recognized to have serious deleterious impacts on human health  
12 or the environment, including DDT, DDE, PCBs, and  
13 flame-retardants.

14 (h) ~~Microplastics~~ *Plastic microbeads* have been found in surface  
15 waters within the United States, as well as in fish, marine  
16 mammals, and reptiles, and in the digestive and circulatory systems  
17 of mussels and worms.

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

20 (j) Fish that humans consume have been found to ingest  
21 ~~microplastics~~ *plastic microbeads*.

22 (k) There are many biodegradable, natural alternatives to  
23 ~~microplastics~~ *plastic microbeads* that are economically feasible,  
24 as evidenced by their current use in some consumer personal care  
25 products.

26 42361. As used in this chapter, the following terms have the  
27 following meanings:

28 (a) ~~“Microplastic” means any plastic size 5 millimeter or less~~  
29 ~~in all dimensions.~~

30 (b)

31 (a) ~~“Person” means an individual, trust, firm, joint stock~~  
32 ~~company, corporation, company, partnership, limited liability~~  
33 ~~company, and association. *business, or other entity.*~~

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

38 (d) ~~“Person in the course of doing business” does not include~~  
39 ~~any person employing fewer than 10 employees in his or her~~  
40 ~~business; any city, county, or district or any department or agency~~

1 ~~thereof or the state or any department or agency thereof or the~~  
2 ~~federal government or any department or agency thereof; or any~~  
3 ~~entity in its operation of a public water system.~~

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

9 *(b) (1) “Personal care product” means an article intended to*  
10 *be rubbed, poured, sprinkled, or sprayed on, introduced to, or*  
11 *otherwise applied to, the human body or any part thereof for*  
12 *cleansing, beautifying, promoting attractiveness, or altering the*  
13 *appearance, and an article intended for use as a component of*  
14 *such an article.*

15 *(2) “Personal care product” does not include a prescription*  
16 *drug, as defined in Section 110010.2 of the Health and Safety*  
17 *Code.*

18 *(c) “Plastic microbead” means an intentionally added plastic*  
19 *particle measuring five millimeters or less in size in every*  
20 *dimension.*

21 42362. ~~On or after January 1, 2019, a person in the course of~~  
22 ~~doing business shall not sell or offer for promotional purposes in~~  
23 ~~this state any personal care products containing microplastic plastic~~  
24 ~~microbeads.~~

25 42363. ~~Section 42362 shall not apply to any person in the~~  
26 ~~course of doing business that sells or offers for promotional~~  
27 ~~purposes a personal care product containing microplastic plastic~~  
28 ~~microbeads in less than 1 part per million (ppm) by 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 42367. The civil penalties collected pursuant to Section 42364
- 14 shall be retained by the office of the city attorney, city prosecutor,
- 15 district attorney, or Attorney General, whichever office brought
- 16 the action.
- 17 42368. This chapter does not alter or diminish any legal
- 18 obligation otherwise required in common law or by statute or
- 19 regulation, and this chapter does not create or enlarge any defense
- 20 in any action to enforce the legal obligation. Penalties and sanctions
- 21 imposed under this chapter shall be in addition to any penalties or
- 22 sanctions otherwise prescribed by law.