

VETO MESSAGE: Yes

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Christie signs microbeads ban into law," northjersey.com, 3-23-15

"Microbead ban designed to protect waters becomes law," Herald News, 3-24-15

"Christie signs legislation banning N.J. production and sale of microbeads," The Star-Ledger, 3-24-15

LAW/RWH

P.L.2015, CHAPTER 28, *approved March 23, 2015*
Assembly Committee Substitute (*First Reprint*) for
Assembly, No. 3083

1 **AN ACT** prohibiting manufacture, sale or promotion of personal
2 care products containing microbeads and supplementing Title 58
3 of the Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. As used in this act:

9 “Over the counter drug” means a drug that contains a label which
10 identifies the product as a drug, as required by 21 CFR 201.66. The
11 label shall include:

12 (1) a “Drug Facts” panel; or

13 (2) a statement of the "active ingredient" or "active ingredients"
14 with a list of those ingredients contained in the compound,
15 substance or preparation.

16 “Personal care product” means any article intended to be rubbed,
17 poured, sprinkled, or sprayed on, introduced into, or otherwise
18 applied to the human body for cleansing, beautifying, promoting
19 attractiveness, or altering the appearance, or any item intended for
20 use as a component thereof.

21 “Plastic” means a synthetic material made from linking
22 monomers through a chemical reaction to create an organic polymer
23 chain that can be molded or extruded at high heat into various solid
24 forms retaining their defined shapes during the life cycle and after
25 disposal.

26 “Synthetic plastic microbead” means any intentionally added
27 non-biodegradable, solid plastic particle measuring less than five
28 millimeters in size and used to exfoliate or cleanse in a rinse-off
29 product.

30

31 2. a. On or after January 1, 2018, no person shall produce or
32 manufacture in the State a personal care product containing
33 synthetic plastic microbeads, except for an over the counter drug.

34 b. On or after January 1, 2019, no person shall:

35 (1) sell, offer for sale, or offer for promotion in the State a
36 personal care product containing synthetic plastic microbeads,
37 except for an over the counter drug; or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly amendments adopted in accordance with Governor's
recommendations December 11, 2014.

1 (2) produce or manufacture in the State an over the counter drug
2 that contains synthetic plastic microbeads.

3 c. On or after January 1, 2020, no person shall sell, offer for
4 sale, or offer for promotion in the State an over the counter drug
5 containing synthetic plastic microbeads.

6
7 3. a. A person or entity who violates this act shall be subject to
8 a penalty of ¹~~not less than \$1,000 and~~¹ not more than ¹~~[\$10,000]~~
9 ~~\$500~~¹ for each offense, to be collected ¹~~by the Commissioner of~~
10 ~~Environmental Protection~~¹ in a civil action by a summary
11 proceeding under the “Penalty Enforcement Law of 1999,”
12 P.L.1999, c.274 (C.2A:58-10 et seq.). ¹~~If the violation is of a~~
13 ~~continuing nature, each day during which it continues constitutes an~~
14 ~~additional, separate, and distinct offense.~~¹ The municipal court
15 and Superior Court shall have jurisdiction of proceedings for the
16 enforcement of the penalty provided by this section.

17 b. The Commissioner of Environmental Protection may
18 institute a civil action for injunctive relief to enforce the provisions
19 of section 2 of this act and to prohibit and prevent a violation of this
20 act, and the court may proceed in the action in a summary manner.

21 ¹~~Nothing set forth in this act shall be construed as creating,~~
22 ~~establishing or authorizing a private cause of action by an aggrieved~~
23 ~~person against a person who has violated, or is alleged to have~~
24 ~~violated, the provisions of this act.~~¹

25
26 4. The provisions of this act shall preempt any ordinance or
27 resolution of a municipality, county or any other local government
28 entity concerning synthetic plastic microbeads.

29
30 5. This act shall take effect immediately.

31
32
33
34
35 Prohibits manufacture, sale or promotion of personal care
36 products containing microbeads.

ASSEMBLY, No. 3083

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MAY 8, 2014

Sponsored by:

Assemblyman PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblyman TIMOTHY J. EUSTACE

District 38 (Bergen and Passaic)

SYNOPSIS

Prohibits manufacture, sale, or promotion of cosmetic products containing microbeads.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/16/2014)

A3083 DIEGNAN, MORIARTY

2

1 AN ACT prohibiting manufacture, sale, or promotion of cosmetic
2 products containing microbeads and supplementing Title 58 of
3 the Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. As used in this act:

9 "Microbeads" means any plastic component of a personal
10 cosmetic product measured to be five millimeters or less in size.

11 "Personal cosmetic product" means any article intended to be
12 rubbed, poured, sprinkled, or sprayed on, introduced into, or
13 otherwise applied to the human body for cleansing, beautifying,
14 promoting attractiveness, or altering the appearance, or any item
15 intended for use as a component thereof.

16

17 2. a. On or after January 1, 2015, no person shall produce or
18 manufacture in the State a personal cosmetic product containing
19 microbeads for consumer use or any other purpose.

20 b. On or after January 1, 2018 or two years after the date of
21 enactment of this act, whichever is sooner, no person shall sell,
22 offer for sale, or offer for promotion in the State a personal
23 cosmetic product containing microbeads for consumer use or any
24 other purpose.

25

26 3. a. A person or entity who violates this act shall be subject to
27 a penalty of not less than \$1,000 and not more than \$10,000 for
28 each offense, to be collected in a civil action by a summary
29 proceeding under the "Penalty Enforcement Law of 1999,"
30 P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a
31 continuing nature, each day during which it continues constitutes an
32 additional, separate, and distinct offense. The municipal court and
33 Superior Court shall have jurisdiction of proceedings for the
34 enforcement of the penalty provided by this section.

35 b. The Department of Environmental Protection may institute a
36 civil action for injunctive relief to enforce the provisions of section
37 1 of this act and to prohibit and prevent a violation of this act, and
38 the court may proceed in the action in a summary manner.

39

40 4. This act shall take effect immediately.

41

42

43

STATEMENT

44

45

46 This bill prohibits the production, manufacture, and sale of all
47 personal cosmetic products containing microbeads. Microbeads are
48 small plastic particles that are added to personal cosmetic products,

1 such as soap and face wash. The microbeads are artificial
2 replacements for natural additives such as crushed almonds and
3 pumice.

4 The bill's prohibition against production or manufacture of
5 personal cosmetic products containing microbeads would
6 commence January 1, 2015. The bill's prohibition against the sale,
7 offer for sale, or promotion of these items would commence
8 January 1, 2018, or two years after the date of enactment of the bill
9 into law, whichever is sooner.

10 Water management facilities around the country are not capable
11 of filtering small microbeads. These microbeads reportedly contain
12 harmful toxins, flow through water treatment facilities, and are
13 directly deposited in our waterways. Microbeads in open water
14 appear edible to fish, which then eat the toxin-covered plastic
15 particles. These fish are then consumed by other fish or humans,
16 resulting in microbeads covered with toxins entering the food chain.

17 Legislation has been introduced in New York, California,
18 Michigan, and other states to address the environmental concerns
19 caused by microbeads.

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3083

STATE OF NEW JERSEY

DATED: SEPTEMBER 18, 2014

The Assembly Consumer Affairs Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3083.

The Assembly Committee Substitute for Assembly Bill No. 3083 prohibits the production, manufacture, and sale of all personal care products containing synthetic plastic microbeads. Microbeads are small plastic particles added to personal care products, such as soap and face wash, and to some products classified as over the counter drugs. The microbeads are artificial replacements for natural additives.

Under the provisions of the substitute, the timeline phasing out the production, manufacture, and sale of microbead-containing personal care products in the State is as follows:

- January 1, 2018 – no person may produce or manufacture a personal care product containing synthetic plastic microbeads, except for an over the counter drug.
- January 1, 2019 – no person may:
 - sell or offer for sale or promotion a personal care product containing synthetic plastic microbeads, except for an over the counter drug; or
 - produce or manufacture an over the counter drug that contains synthetic plastic microbeads.
- January 1, 2020 – no person may sell or offer for sale or promotion an over the counter drug containing synthetic plastic microbeads.

A person who violates the substitute's provisions will be subject to a penalty of not less than \$1,000 and not more than \$10,000 for each offense. The substitute provides that if the violation is of a continuing nature, each day during which it continues constitutes an additional, separate, and distinct offense. Additionally, the Commissioner of Environmental Protection may institute a civil action for injunctive relief to enforce the provisions of the substitute.

Water management facilities around the country are not capable of filtering synthetic plastic microbeads. These microbeads reportedly contain harmful toxins, flow through water treatment facilities, and are directly deposited in our waterways. Microbeads in open water appear

edible to fish, which eat the toxin-covered plastic particles. These fish are then consumed by other fish or humans, resulting in microbeads covered with toxins entering the food chain.

Legislation has been introduced in California, Illinois, Michigan, New York, and other states to address the environmental concerns caused by microbeads.

SENATE COMMERCE COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3083

STATE OF NEW JERSEY

DATED: OCTOBER 9, 2014

The Senate Commerce Committee reports favorably the Assembly Committee Substitute for Assembly Bill No. 3083.

This bill prohibits the production, manufacture, and sale of all personal care products and over the counter drugs containing synthetic plastic microbeads over a period of time as established in the bill. Microbeads are small plastic particles added to personal care products, such as soap and face wash, and to some products classified as over the counter drugs. The microbeads are artificial replacements for natural additives.

Under the provisions of the bill, the timeline for phasing out the production, manufacture, and sale of microbead-containing products in the State is as follows:

- January 1, 2018 – no person may produce or manufacture a personal care product containing synthetic plastic microbeads, except for an over the counter drug.
- January 1, 2019 – no person may:
 - sell or offer for sale or promotion a personal care product containing synthetic plastic microbeads, except for an over the counter drug; or
 - produce or manufacture an over the counter drug that contains synthetic plastic microbeads.
- January 1, 2020 – no person may sell or offer for sale or promotion an over the counter drug containing synthetic plastic microbeads.

A person who violates the bill's provisions will be subject to a penalty of not less than \$1,000 and not more than \$10,000 for each offense. The bill provides that if the violation is of a continuing nature, each day during which it continues constitutes an additional, separate, and distinct offense. Additionally, the Commissioner of Environmental Protection may institute a civil action for injunctive relief to enforce the provisions of the bill.

Water management facilities around the country are not capable of filtering synthetic plastic microbeads. These microbeads reportedly contain harmful toxins, flow through water treatment facilities, and are directly deposited in our waterways. Microbeads in open water appear

edible to fish, which eat the toxin-covered plastic particles. These fish are then consumed by other fish or humans, resulting in microbeads covered with toxins entering the food chain.

Legislation has been introduced in California, Illinois, Michigan, New York, and other states to address the environmental concerns caused by microbeads.

SENATE, No. 2178

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED JUNE 16, 2014

Sponsored by:

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Prohibits manufacture, sale, or promotion of cosmetic products containing microbeads.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT prohibiting manufacture, sale, or promotion of cosmetic
2 products containing microbeads and supplementing Title 58 of
3 the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. As used in this act:

9 “Microbeads” means any plastic component of a personal
10 cosmetic product measured to be five millimeters or less in size.

11 “Personal cosmetic product” means any article intended to be
12 rubbed, poured, sprinkled, or sprayed on, introduced into, or
13 otherwise applied to the human body for cleansing, beautifying,
14 promoting attractiveness, or altering the appearance, or any item
15 intended for use as a component thereof.

16
17 2. a. On or after January 1, 2015, no person shall produce or
18 manufacture in the State a personal cosmetic product containing
19 microbeads for consumer use or any other purpose.

20 b. On or after January 1, 2018 or two years after the date of
21 enactment of this act, whichever is sooner, no person shall sell,
22 offer for sale, or offer for promotion in the State a personal
23 cosmetic product containing microbeads for consumer use or any
24 other purpose.

25
26 3. a. A person or entity who violates this act shall be subject to
27 a penalty of not less than \$1,000 and not more than \$10,000 for
28 each offense, to be collected in a civil action by a summary
29 proceeding under the “Penalty Enforcement Law of 1999,”
30 P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a
31 continuing nature, each day during which it continues constitutes an
32 additional, separate, and distinct offense. The municipal court and
33 Superior Court shall have jurisdiction of proceedings for the
34 enforcement of the penalty provided by this section.

35 b. The Department of Environmental Protection may institute a
36 civil action for injunctive relief to enforce the provisions of section
37 1 of this act and to prohibit and prevent a violation of this act, and
38 the court may proceed in the action in a summary manner.

39
40 4. This act shall take effect immediately.

41

42

43

STATEMENT

44

45 This bill prohibits the production, manufacture, and sale of all
46 personal cosmetic products containing microbeads. Microbeads are
47 small plastic particles that are added to personal cosmetic products,
48 such as soap and face wash. The microbeads are artificial

1 replacements for natural additives such as crushed almonds and
2 pumice.

3 The bill's prohibition against production or manufacture of
4 personal cosmetic products containing microbeads would
5 commence January 1, 2015. The bill's prohibition against the sale,
6 offer for sale, or promotion of these items would commence
7 January 1, 2018, or two years after the date of enactment of the bill
8 into law, whichever is sooner.

9 Water management facilities around the country are not capable
10 of filtering small microbeads. These microbeads reportedly contain
11 harmful toxins, flow through water treatment facilities, and are
12 directly deposited in our waterways. Microbeads in open water
13 appear edible to fish, which then eat the toxin-covered plastic
14 particles. These fish are then consumed by other fish or humans,
15 resulting in microbeads covered with toxins entering the food chain.

16 Legislation has been introduced in New York, California,
17 Michigan, and other states to address the environmental concerns
18 caused by microbeads.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2178**

STATE OF NEW JERSEY

DATED: OCTOBER 9, 2014

The Senate Commerce Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2178.

This Senate Committee Substitute for Senate Bill No. 2178 prohibits the production, manufacture, and sale of all personal care products and over the counter drugs containing synthetic plastic microbeads over a period of time as established in the substitute. Microbeads are small plastic particles added to personal care products, such as soap and face wash, and to some products classified as over the counter drugs. The microbeads are artificial replacements for natural additives.

Under the provisions of the substitute, the timeline for phasing out the production, manufacture, and sale of microbead-containing products in the State is as follows:

- January 1, 2018 – no person may produce or manufacture a personal care product containing synthetic plastic microbeads, except for an over the counter drug.
- January 1, 2019 – no person may:
 - sell or offer for sale or promotion a personal care product containing synthetic plastic microbeads, except for an over the counter drug; or
 - produce or manufacture an over the counter drug that contains synthetic plastic microbeads.
- January 1, 2020 – no person may sell or offer for sale or promotion an over the counter drug containing synthetic plastic microbeads.

A person who violates the substitute's provisions will be subject to a penalty of not less than \$1,000 and not more than \$10,000 for each offense. The substitute provides that if the violation is of a continuing nature, each day during which it continues constitutes an additional, separate, and distinct offense. Additionally, the Commissioner of Environmental Protection may institute a civil action for injunctive relief to enforce the provisions of the substitute.

Water management facilities around the country are not capable of filtering synthetic plastic microbeads. These microbeads reportedly contain harmful toxins, flow through water treatment facilities, and are

directly deposited in our waterways. Microbeads in open water appear edible to fish, which eat the toxin-covered plastic particles. These fish are then consumed by other fish or humans, resulting in microbeads covered with toxins entering the food chain.

Legislation has been introduced in California, Illinois, Michigan, New York, and other states to address the environmental concerns caused by microbeads.

This committee substitute, as reported by the committee today, is identical to Assembly Bill No. 3083 (ACS), also reported by the committee today.

**ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY BILL NO. 3083**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning the Assembly Committee Substitute for Assembly Bill No. 3083 with my recommendations for reconsideration.

This bill generally seeks to phase in a prohibition on the manufacture and sale of personal care products containing "microbeads." Microbeads are small, plastic pellets commonly found in exfoliating washes, toothpaste, and other personal cleansers and beauty products. Because of their small size, wastewater treatment systems are unable to filter out microbeads from treated water, meaning that microbeads eventually wind up in the State's waterways, potentially impacting fragile ecosystems. To address this problem, this bill would ban the manufacture of microbead-containing personal care products within the State beginning in 2018, and prohibit the sale of these products within the State beginning in 2019. The bill also contains a similar ban on the manufacture and sale of over-the-counter drugs containing microbeads.

Generally speaking, a bill seeking to ban such products would raise concerns about the impact of such a ban on businesses. However, I am advised that the manufacturers of these products plan to phase out the use of plastic microbeads in the near future. As a result, this bill received the support of groups representing both manufacturers and retailers of products covered by this bill.

Nevertheless, although representatives of the affected industry expect that microbead-containing products will be off the market by the time the prohibitions in this bill would take

effect, I can foresee a circumstance where a small retailer, perhaps unwittingly, continues to offer microbead-containing products for sale after the ban is in place. Under the bill, the retailer would be subject to draconian penalties of up to \$10,000 per product, per day. A few tubes of out-of-date face wash combined with overzealous enforcement of this ban could easily drive a small business owner into bankruptcy.

Although I do not think that the Legislature envisioned that business owners would be penalized in the foregoing manner, it nonetheless makes sense to rein in the penalties contained in this bill to prevent the possibility of crippling punishments. Therefore, I recommend that the bill be amended to impose a maximum fine of \$500 per violation, and to remove the language concerning offenses that are continuing in nature. Finally, I recommend that it be made clear that these penalties may be pursued only by the Commissioner of Environmental Protection, and not private parties.

Accordingly, I herewith return the Assembly Committee Substitute for Assembly Bill No. 3083 and recommend that it be amended as follows:

<u>Page 2, Section 3, Line 45:</u>	Delete "not less than \$1,000 and"
<u>Page 2, Section 3, Line 45:</u>	Delete "\$10,000" and insert "\$500"
<u>Page 2, Section 3, Line 46:</u>	After "collected" insert "by the Commissioner of Environmental Protection"
<u>Page 3, Section 3, Line 1:</u>	Delete "If the violation is of a"
<u>Page 3, Section 3, Line 2:</u>	Delete in its entirety
<u>Page 3, Section 3, Line 3:</u>	Delete "additional, separate, and distinct offense."

Page 3, Section 3, Line 10:

Insert "c. Nothing set forth in this act shall be construed as creating, establishing or authorizing a private cause of action by an aggrieved person against a person who has violated, or is alleged to have violated, the provisions of this act."

[seal]

Respectfully,

/s/ Chris Christie

Governor

Attest:

/s/ Christopher S. Porrino

Chief Counsel to the Governor