



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

WRITTEN
TESTIMONY ONLY

**Testimony in SUPPORT of SB 2326 SD1
RELATING TO MICROBEADS**

REPRESENTATIVE NICOLE E. LOWEN, CHAIR
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Hearing Date: 3/12/2020

Room Number: 325

- 1 **Fiscal Implications:** Unknown at this time.
- 2 **Department Testimony:** The Department of Health (Department) supports this measure. This
3 measure seeks to amend Hawaii Revised Statutes, Chapter 328 by requiring a phase out and
4 ultimate prohibition on the manufacture and sale in Hawaii of personal care products and non-
5 prescription drugs containing synthetic plastic microbeads two millimeters in size or larger. The
6 Department is aware that the accumulation and possible impacts of microplastic particles in the
7 marine environment is recognized as an important environmental issue and supports efforts to
8 decrease microplastic pollution in Hawaii's waters to protect our marine environment. Banning
9 personal care products with plastic microbeads is a small step towards achieving this overall
10 goal.
- 11 **Offered Amendments:** None
- 12 Thank you for the opportunity to testify on this measure.



March 10, 2020

Representative Nicole E. Lowen, Chair
Representative Tina Wildberger, Vice Chair
Committee on Energy & Environmental Protection
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Chair Lowen and Vice Chair Wildberger:

As a coalition of health, wellness and business organizations, we respectfully request that you oppose SB 2326 SD1, prohibiting the sale of personal care products with synthetic plastic microbeads.

The cosmetics and personal care products industry's deep commitment to product safety and environmental stewardship includes protection of the marine environment that sustains life on our planet. That's why cosmetics companies responded early and aggressively to concerns over microbeads, even though these ingredients make up a tiny fraction of plastic litter in waterways. The cosmetics industry announced a voluntary phase-out of microbeads, and then worked with elected officials and environmental advocacy groups to support laws that permanently ban plastic microbeads. Several states adopted laws and the Council of State Governments accepted the language into their Shared State Legislation Volume 75. Subsequently, the Microbead-Free Waters Act, was signed into law by President Obama in December 2015 and bans the manufacturing of products containing microbeads as of July 1, 2017.

Since the passing of the Microbeads Free Water Act, the scientific community has taken considerable action to evaluate the environmental risk of microplastic emissions from combined sources entering the freshwater and marine environment. Research looking at the occurrence and environmental fate of various ingredients is currently ongoing, although to date there is no evidence to show that personal care products are a major contributor to marine litter.

In addition, it is important to note that microbeads are effectively removed from water by wastewater treatment plants. In studies conducted in the U.S. and Europe, wastewater treatment facilities were found to remove more than 99 percent of these particles. Moreover, the main form of plastic that was detected in these studies was fibers, which have never been used as cosmetics and personal care products ingredients.

As part of the industry's commitment to a more sustainable future, we continue to work with environmental groups and all interested stakeholders to find pragmatic solutions to plastic debris in waterways, for the benefit of our consumers and the marine environment we all share.

Cooperation and voluntary commitments from the cosmetics and OTC medicines industries, coupled with the federal law, renders state and local restrictions like SB 2326 SD1 unnecessary. We respectfully ask for your NO vote on SB 2326 SD1.

SB-2326-SD-1

Submitted on: 3/10/2020 12:03:54 PM

Testimony for EEP on 3/12/2020 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|--------------------------------|---------------------------|---------------------------|
| Dyson Chee | Hawaii Youth Climate Coalition | Oppose | No |

Comments:

Aloha Chair Lowen, Vice-chair Wildberger, and members of the committee,

My name is Dyson Chee, and I am an 18 year old high school student living in Ala Moana. On behalf of Hawaii Youth Climate Coalition, we strongly oppose the current SB2326. Although we support the intent of this bill to address the issue of microbeads, we are deeply concerned about three parts of this bill. First of all, "synthetic plastic microbead" is problematic in its language in that microbeads can be of varying sizes, and most are smaller than one millimeter in diameter. This means that there is a huge loophole in the bill when the definition of "synthetic plastic microbead" is two millimeters in size or larger. Federally, the definition is five millimeters in size and smaller.

Also, the definition of "plastic" is concerning. There are many plastics that would not be covered because they do not retain their shape throughout their life cycle or after disposal or do not require high heat for molding or extrusion. We respectfully request that this definition be deleted.

Finally, this bill would preempt all county efforts to address microbeads. This provision is problematic, given the loopholes created in this bill as described above.

Hawaii Youth Climate Coalition supports action to effectively take on plastic pollution as they contribute directly to climate change; however, we have strong reason to believe that the passage of this bill, as it is, will not help Hawaii to address plastic pollution and climate change more effectively. We urge this committee to either amend this bill to eliminate the loopholes and preemption, or otherwise defer this bill.

Mahalo for your consideration,

Dyson Chee

SB-2326-SD-1

Submitted on: 3/10/2020 4:59:49 PM

Testimony for EEP on 3/12/2020 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|-------------------------------|---------------------------|---------------------------|
| robert brower | surfrider foundation kauai | Support | No |

Comments:

we strongly support this important Bill

Beach Environmental Awareness Campaign Hawai'i

P.O. Box 25284 · Honolulu · Hawai'i · 96825

(808) 393 2168 · www.b-e-a-c-h.org

DATE: Wednesday 11th March, 2020.

TO: Chair Nicole Lowen, Vice-Chair Tina Wildberger and Members of the Committee on Energy and Environmental Protection

FROM: Dean Otsuki, Co-founder, Beach Environmental Awareness Campaign Hawai'i

RE: **TESTIMONY IN STRONG OPPOSITION TO SB2326 SD1**

Relating to microbeads

Committee meeting on Thursday 12th March, 2020 at 8:30AM, room 325.

Dear Chair Lowen, Vice-Chair Wildberger and Committee Members,

Beach Environmental Awareness Campaign Hawai'i (B.E.A.C.H.) supports banning all plastic microbeads, however this bill as written does not achieve that goal and therefore we **strongly oppose SB2326**.

In Section 1 of SB2326 the bill states: "to phase in a prohibition on the manufacture and sale in Hawai'i of certain personal care products and non-prescription drugs that contain synthetic plastic microbeads". There is no further reason given such as protecting marine life or human health, so it seems that this bill is not about mitigating the harm of microbeads that are still allowed in "leave on" products.

The committee should look at the Federal Microbead Free Waters Act of 2015 as a basis for a state law that covers the "leave on" products (as the federal law only applies to "rinse off"). The purpose and need for legislation stated in the Federal Microbead Free Waters Act of 2015 is as follows:

"The purpose of HR1321 is to ban plastic microbeads from rinse off cosmetic products to prevent them from getting into waterways across the United States....Microbeads are too small to be filtered out by most sewer treatment facilities and make their way into our waterways and wildlife. Microbeads can absorb chemicals commonly found in waterways and ...they are mistaken for food by small fish and wildlife. Many manufacturers are voluntarily phasing out the use of microbeads because of their environmental impact."

The environmental reasons for banning microbeads has been completely missed out of SB2326.

The definition of a microbead also differs between SB2326 and HR1321:

SB2326 states that "'Synthetic plastic microbead' means any intentionally added solid plastic particle measuring *two millimeters in size or larger*"

HR1321 states that "The term 'plastic microbead' means any solid plastic particle *that is less than five millimeters in size* and is intended to be used to exfoliate or cleanse the human body or any part thereof."

Most microbeads are the size of a grain of salt or sand which is about 1mm or smaller. SB2326's definition provides a very large loophole which would exclude most plastic microbeads from this law.

In addition, SB2326 refers to "synthetic" plastic microbeads. The use of the word "synthetic" is another loophole term which would result in the replacing of one type of plastic microbead with another type of plastic microbead and that is why the word "synthetic" is not included in the definition of plastic microbead in the Federal Microbead Free Waters Act.

A plastic microbead ban needs to include all plastic microbeads. This includes banning those made from bio-plastics or biomass as these do not biodegrade or compost in the ocean and will still be ingested by marine life including plankton at the base of the food chain, coral and small fish. Ingesting plastic causes blockages, starvation and death to animals. Plastic in any form including made from biomass should not be used in any personal care product whether "rinse off" or "leave on". With the "leave on" products such as sunscreen, make-up, beauty products like skin cream etc. these products are eventually washed off when people take a shower. Which means that those microbeads end up in the same place as the "rinse-off" ones - down the drain and out into the ocean and then getting eaten by marine life and then by humans who eat fish.

There are many of naturally occurring alternatives for plastic microbeads including sand, salt, sugar, fruit seeds, oats, rice, bamboo, ground up nut shells, etc. It is not difficult for the industry to do what is right and stop using plastic and go back to using natural products like they did before. Unfortunately plastic microbeads are being used for purposes such as bulking up the product to create cheaper to manufacture products that contain less of the real ingredients as they are replaced with plastic.

The definition of "Plastic" in SB2326 is very problematic and incorrect and not needed. The Federal bill does not include a definition of plastic. What's wrong with the definition is that it states that plastic retains its shape during life cycle and after disposal. That is completely false. I've seen plenty of plastic marine debris that has been melted, squashed, broken, chipped, fragmented and even shows evidence of being bitten or chewed on by marine life. It did not "retain its shape during life cycle and after disposal". Plastic at H-Power turns into plastic dust/powder which is not "retaining its shape". Plastic can photodegrade into smaller and smaller pieces due to UV light. If it's made of biomass, it can compost in high heat commercial compost facilities. These are all reasons why this part of the definition of plastic in SB2326 is incorrect.

Of great concern also in SB2326 SD1 is 2(e) which states "This section shall preempt any county ordinance concerning synthetic plastic microbeads". B.E.A.C.H. does not agree with stopping counties from passing stronger bans on plastic. If SB2326 should pass it would stop any county from passing a real ban on microbeads.

Please do *not* pass this bill unless amended. Thank you for the opportunity to provide testimony.

Sincerely,



Dean Otsuki
Co-Founder, B.E.A.C.H.
B.E.A.C.H.

SB-2326-SD-1

Submitted on: 3/11/2020 6:24:59 AM

Testimony for EEP on 3/12/2020 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|-----------------------|---------------------------|---------------------------|
| Cathy Goeggel | Animal Rights Hawai'i | Support | No |

Comments:



March 10, 2020

To: The Honorable Nicole Lowen, Chair,
The Honorable Tina Wildberger, Vice Chair, and Members of the
House Committee on Energy and Environmental Protection

Re: **SB 2326 SD1– relating to microbeads**

Hearing: Thursday, March 12, 2020, 8:30 a.m. Room 325

Position: **Strong Opposition Unless Amended**

The Hawaii Reef and Ocean Coalition strongly supports regulation of microbeads but **STRONGLY OPPOSES** this bill in its current form. The bill should not pass without the attached proposed amendments.

The bill as drafted has the following problems:

1. The bill fails to explain its purpose clearly: Hawaii needs to phase-out the sale of products containing plastic microbeads, which generally pass through sewage treatment plants in Hawaii, enter the ocean by the billions, absorb harmful chemicals including persistent toxins such as DDT, and are consumed by and can harm or kill plankton, corals, small fish and wildlife. Safer alternatives are readily available – things that we previously used in exfoliating products before plastic microbeads were substituted – that we can easily substitute, such as oatmeal, sea salt, coconut or cocoa husks, or apricot pits.

2. The bill deviates from the federal Microbead-Free Waters Act of 2015, creating several harmful loopholes:

A. **Size:** The defined size of microbeads matters greatly! Most microbeads are one millimeter or smaller in diameter. The federal act appropriately and inclusively defines “plastic microbead” as less than 5 millimeters in size. The present bill **excludes from regulation** the vast majority of microbeads by defining “synthetic plastic microbead” as 2 millimeters or larger. Instead, the bill needs to regulate microbeads that are less than 5

millimeters in diameter, just as the federal law does. (This bill applies to “leave on” cosmetics, while the federal law applies to “rinse off” cosmetics.)

B. “Synthetic”: The bill’s use of the word “synthetic” in defining plastic microbeads could be interpreted to allow the sale of products containing many still harmful microbeads made from bioplastics or biomass. Deleting “synthetic” would make the bill more clear.

C. “Plastic”: The bill’s definition of “plastic” is also inappropriate. There are many plastics that would not be covered by this third loophole because they do not retain their shape throughout their life cycle or after disposal or do not require high heat for molding or extrusion. This definition should be deleted because it unnecessarily narrows the scope of the plastics that would be covered by the bill.

3. Preemption of county efforts. This bill would preempt any county efforts to control microbeads. This provision is problematic, given the three loopholes created in this bill as described above.

Mahalo for your consideration. Please amend the bill to read in the following attachment.

Respectfully,

Alan B. Burdick, for HIROC
Burdick808@gmail.com 486-1018

STATE OF HAWAII

A BILL FOR AN ACT

RELATING TO MICROBEADS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The purpose of this Act is to protect marine life from harm by phasing out the manufacturing and sale in Hawaii of “leave-on” personal care products containing plastic microbeads. Microbeads are tiny plastic particles too small to be removed by sewer treatment facilities in Hawaii. Plastic microbeads thus pass into our waterways, can absorb persistent toxic chemicals, and are mistaken for food by and can harm and kill plankton, corals, small fish and wildlife. The legislature notes that nothing in this Act shall be construed to apply to rinse-off cosmetics and rinse-off cosmetics that are also non-prescription drugs, as these products are exclusively regulated by the federal government pursuant to the federal Microbead-Free Waters Act of 2015 (Public Law 114-114).

SECTION 2. Chapter 328, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§328- Prohibition of plastic microbeads; personal care products; non-prescription drugs. (a) Beginning July 1, 2021, no person shall manufacture in the State a personal care product, except for a prescription drug, that contains plastic microbeads.

(b) Beginning July 1, 2022, no person shall:

(1) Sell or offer for sale in the State a personal care product, except for a prescription drug, that contains plastic microbeads; or

(2) Manufacture in the State a prescription drug that contains plastic microbeads.

(c) Beginning July 1, 2023, no person shall sell or offer for sale in the State a prescription drug that contains plastic microbeads.

(d) Nothing in this section shall be construed to apply to any rinse-off cosmetic or rinse-off cosmetic that is also a prescription drug as regulated pursuant to the federal Microbead-Free Waters Act of 2015, Public Law 114-114.

(e) As used in this section:

“Personal care product” means any article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and any article intended for use as a component of the article. “Personal care product” does not include any prescription drug.

“Plastic microbead” means any solid plastic particle that is less than five millimeters in size and is intended to exfoliate or cleanse the human body or any part thereof.”

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.



March 12, 2020

To: The House Committee Members on Energy & Environmental Protection
The Honorable Nicole E. Lowen, Chair
The Honorable Tine Wildberger Vice Chair

Re: Strong Support of SB2326 SD1, Relating to Microbeads

Hrg: March 12, 2020 at 8:30 AM at Capitol Room 325

The Hawaii Public Health Association (HPHA) is a group of over 600 community members, public health professionals and organizations statewide dedicated to improving public health. HPHA also serves as a voice for public health professionals and as a repository for information about public health in the Pacific.

HPHA strongly supports SB2326 SD1, which would phase in a prohibition on the manufacturing and sales in Hawaii of certain personal care products and non-prescription drugs that contain synthetic plastic microbeads over the course of time between July 1, 2021 and July 1, 2023.

Because of the size of microbeads, sewage waste treatment facilities are unable to filter synthetic plastic microbeads out of wastewater. The result of this is that the microbeads can be discharged into the ocean. Marine life will then ingest the microbeads, resulting in at least injury and at most death. The injury and death of marine life not only affect those species but will also affect people engaging in and benefiting from fishery activities and consuming marine life. Also people engaging in recreational activities who accidentally ingest contaminated coastal waters may experience rashes and stomach aches. We urge you to take action on this bill to reduce contamination of our treasured marine resources.

Thank you for the opportunity to provide testimony on important health issues affecting people in Hawaii.

Respectfully submitted,

Tenaya Jackman, MPH
Board Member
Climate Change Legislative Sub-Committee Chair
Hawaii Public Health Association

SB-2326-SD-1

Submitted on: 3/10/2020 6:14:03 PM

Testimony for EEP on 3/12/2020 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Andrea Quinn | Individual | Support | No |

Comments:

Dear Honorable Committee Members:

Please support SB2326. Plastic microbeads are being banned all over the country and globally because the plastic is not biodegradable. The small size of these beads means they reach the lowest levels of the food web, including fish larvae. This also means humans will be the ultimate consumers of these microbeads.

Thank you for your time and the opportunity to present my testimony.

Sincerely,

Andrea Quinn

Kihei, Maui

SB-2326-SD-1

Submitted on: 3/11/2020 4:00:55 PM

Testimony for EEP on 3/12/2020 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Lisa Marten | Individual | Support | No |

Comments:

Let's keep unnecessary plastic out of our oceans and our marine wildlife. Mahalo.

LATE



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
March 12, 2020**

Re: SB 2326 SD 1 Relating to Microbeads

Good morning Chairperson Lowen and members of the House Committee on Energy & Environmental Protection. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii (RMH) is a statewide not-for-profit trade organization is committed to support the retail industry and business in general in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

The Retail Merchants of Hawaii is in OPPOSITION to SB 2326 SD 1 Relating to Microbeads. This measure beginning 7/1/2021: bans the manufacture of a personal care product, except a non-prescription drug, that contains synthetic plastic microbeads; beginning 7/1/2022: bans the sale or offer for sale of a personal care product, except a non-prescription drug, that contains synthetic plastic microbeads and bans the manufacture of a non-prescription drug that contains synthetic plastic microbeads; beginning 7/1/2023: bans the sale or offer for sale of a non-prescription drug that contains synthetic plastic microbeads; and s\Specifically exempts rinse-off cosmetics and rinse-off cosmetics that are also non-prescription drugs regulated by the federal Microbead-Free Waters Act of 2015.

It is our understanding that the plastic microbeads used in many of the personal care products are NOT typically found in the litter in our oceans and that wastewater treatments are in fact removing almost all of these particles. Consumer are the driving force in what products retailer's stock and sell in their stores. Over the years we have seen many companies switching to use alternative microbead in their products.

We would like to point out that there are thousands of personal care products that would be impacted including not only creams, lotions body and facial scrubs, but also hand sanitizers, toothpaste, bath soaps, makeup remover, nail polish, facial masks, eyeliner, sunscreen, deodorant, foundation, blush, bronzers, lip gloss, lipsticks, nail files, shaving cream, hair conditioners, styling hair lotions, lip balms, bubble bath, oral rinses, hair sprays, hair mousse, pomade, hair gel, and acne products, to name a few. **By banning these products, the choices that consumers in Hawaii has will be shrink considerably. Local consumers would then turn to the internet to order their favorite banned products online. Or purchase it through the black market where personal care products and cosmetics are one of the sought-after items to steal by retail organized crime.**

Mahalo again for this opportunity to testify.