

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

**Testimony in SUPPORT of SB2290
RELATING TO MICROBEADS**

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE & CONSUMER PROTECTION

SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY

Hearing Date: 3/1/2022

Room Number: CR229/Videoconference

1 **Fiscal Implications:** This measure may impact the priorities identified in the Governor's
2 Executive Budget Request for the Department of Health's (Department) appropriations and
3 personnel priorities.

4 **Department Testimony:** The Department supports this measure. This measure seeks to amend
5 Hawaii Revised Statutes (HRS), Chapter 328 by requiring a phase out and ultimate prohibition
6 on the manufacture and sale in Hawaii of personal care products and non-prescription drugs
7 containing plastic microbeads five millimeters in size or smaller. The Department is aware that
8 the accumulation and possible impacts of microplastic particles in the marine environment is
9 recognized as an important environmental issue and supports efforts to decrease microplastic
10 pollution in Hawaii's waters to protect our marine environment. Banning personal care products
11 with plastic microbeads, not regulated under the federal Microbead-Free Waters Act of 2015, is a
12 small step towards achieving this overall goal.

13 The Department respectfully requests that the proposed amendments be moved from chapter
14 328, HRS, to chapter 321, HRS.

15

16 **Offered Amendments:** None.

- 1 Thank you for the opportunity to testify on this measure.

SB-2290

Submitted on: 2/25/2022 6:15:18 PM

Testimony for CPN on 3/1/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Cathy Goeggel	Testifying for Animal Rights Hawai'i	Support	No

Comments:

Strong Support

SB-2290

Submitted on: 2/27/2022 7:15:54 AM

Testimony for CPN on 3/1/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Suzanne Frazer	Testifying for Beach Environmental Awareness Campaign Hawaii (B.E.A.C.H.)	Comments	No

Comments:

Dear Chair Baker, Chair Rhoads and Committee Members,

Although there have been improvements to this bill from 2 years ago, **it is still missing any rationale** for wanting to "phase in a prohibition on the manufacture and sale in the State of certain personal care products and non—prescription drugs that contain plastic microbeads". Where is the information about how harmful microbeads are to marine life? the environment? human health? How they can't be collected by wastewater treatment plants? etc.

In addition, **it's very unclear as to what this bill is intending to do** because it says it's not about regulating what is already covered under the Federal Microbead Free Waters Act and yet it doesn't cover anything different. This bill does not apply to "leave on products" like sunscreen because the definitions below refer to: cleansing, beautifying, exfoliating etc. and sunscreen doesn't do any of those. It is also very unclear as to whether this bill has anything to do with banning microbeads in leave on products such as make-up, skin moisturizers, lip balm etc. because **the definitions below are contradictory**. In the first definition "personal care product" includes products that "beautify, promote attractiveness or alter the appearance" which would include things like make-up but the 2nd definition "plastic microbeads" refers only to rinse-off products because it says "exfoliate or cleanse".and therefore that wouldn't apply to make-up or any other leave on products. What else is unclear about this is this bill seems to be trying to regulate the same "rinse-off" products as the Federal Microbead Free Waters Act and if that is the case, then it should be written the same as this Act and not have the disclaimer that it is not referring to products regulated by the Act.

B.E.A.C.H. supports banning all plastic microbeads as they are harmful to the environment, marine life and human health and should be banned in all personal care products and cosmetics including those that are left on because eventually people wash them off when they take a shower. But **this bill written as is does not appear to help further ban products with plastic microbeads that are not already covered by the Federal Microbead Free Waters Act** which is why B.E.A.C.H. does not support this bill at this time and has only submitted comments.

Definitions:

"Personal care product" means an 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 a solid plastic particle that is less than five millimeters in size and that **is intended to be used to exfoliate or cleanse** the human body or any part thereof.

Sincerely,

Suzanne Frazer.
President, B.E.A.C.H.

Beach Environmental Awareness Campaign Hawaii (B.E.A.C.H.) is a non-profit organization that brings awareness and solutions to plastic marine debris.



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
MARCH 1, 2022
Re: SB 2290 Relating to Microbeads**

Good morning, Chairperson Baker and Chairperson Rhoads and members of Senate Committee on Commerce and Consumer Affairs and the Senate Committee on Judiciary. 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.

We oppose to SB 2290 Relating to Microbeads. Beginning 7/1/2022: this measure bans the manufacture of a personal care product, except a non-prescription drug, that contains plastic microbeads. Beginning 7/1/2023: bans the sale or offer for sale of a personal care product, except a non-prescription drug, that contains plastic microbeads and bans the manufacture of a non-prescription drug that contains plastic microbeads. Beginning 7/1/2024: bans the sale or offer for sale of a non-prescription drug that contains plastic microbeads. 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. Consumers 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 foundation makeup, eyeshadows and eyeliners, creams, body lotions, hand sanitizers, makeup remover, nail polish, facial masks, sunscreen, deodorant, blush, bronzers, lip gloss, lipsticks, nail files, styling hair lotions, lip balms, hair sprays, hair mousse, pomade, and hair gel products, to name a few.

By banning these products, the choices that consumers in Hawaii have will shrink considerably. Many favorite makeups, lotions, deodorants will no longer be available to purchase. Small local retailers who do not have mainland locations will be forced to take a loss on the products if they must sell them at a deep discount or discard them to make the deadline. 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.

It is our understanding that cosmetic companies are already phasing out the use of microbeads in their products.

Mahalo again for this opportunity to testify.

SB-2290

Submitted on: 2/28/2022 8:20:02 AM

Testimony for CPN on 3/1/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ted Bohlen	Testifying for Hawai'i Reef and Ocean Coalition	Comments	Yes

Comments:

To: The Honorable Rosalyn Baker, Chair, the Honorable Stanley Chang, Vice Chair, and members of the Senate Commerce and Consumer Protection Committee, and

The Honorable Karl Rhoads, Chair, The Honorable Jarrett Keohokalole, Vice Chair, and Members of the Senate Committee on Judiciary

From: Hawai'i Reef and Ocean Coalition (by Ted Bohlen)

Re: Hearing SB2290 RELATING TO MICROBEADS. Tuesday March 1, 2022, 10:00 a.m., by videoconference

Aloha Chairs Baker and Rhoads, Vice Chairs Chang and Keohokalole, and members of the Senate Committees on Commerce and Consumer Protection and Judiciary:

Position: **Hawai'i Reef and Ocean Coalition COMMENTS on SB2290 and suggests amendments in a proposed SD1.**

The Hawai'i Reef and Ocean Coalition (HIROC) is very concerned about protecting coral reefs and other marine species from the many harmful effects that plastic microbeads have on marine life. The Hawai'i Reef and Ocean Coalition **supports the intent** of SB2290 to reduce plastic microbead pollution in Hawai'i waters, **but** believes that **amendments as set forth in the attached PROPOSED SD1 are needed to achieve that goal!** The bill purports to cover "leave on" products, not the "rinse off" products that the Congress has preempted in the Federal Microbead Free Waters Act of 2015, but because of defective definitions, it doesn't actually regulate additional products. **Unless it is amended, the bill should be deferred.**

To justify restricting sales of products, **the bill's preamble should clearly explain the environmental rationale** for phasing in the prohibition on products containing plastic microbeads. Moreover, **to be effective in preventing the sale or use of any products not already prohibited under the 2015 federal Act, the definitions of "personal care product" and "plastic microbead" must be amended.**

The "personal care products" definition needs to be amended to cover "leave on" products, including sunscreens, moisturizers, and deodorants that aren't necessarily used for "cleansing,

beautifying, promoting attractiveness, or altering appearance." **The definition should add the bolded words:**

cleansing, beautifying, promoting attractiveness, [ø] altering the appearance, **hygiene, skin care, or sun protection,**

The "plastic microbead" definition also needs to be revised in order to cover "leave on" sunscreens, make-up, skin moisturers, and lip balm etc. products, which aren't covered by the bill because they don't "exfoliate or cleanse." The limiting phrase "**and that is intended to be used to exfoliate or cleanse the human body or any part thereof**" **should be stricken.** The word "**solid**" **should be deleted** because some microbeads are hollow.

SB2290 RELATING TO MICROBEADS

PROPOSED SD1

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

SECTION 1. The plastic microbeads in many products such as sunscreen, make-up, and beauty products such as skin cream, etc. are very harmful to corals and other marine life. Plastic microbeads from these products enter the ocean either from swimmers or are eventually washed off when people take a shower, going down the drain and to the sewage treatment plants. As the US Congress noted in the Federal Microbead Free Waters Act of 2015 (federal Act): "Microbeads are too small to be filtered out by most sewer treatment facilities and make their way into our waterways and wildlife. Plastic microbeads can absorb chemicals commonly found in waterways... ." Plastic microbeads enter the ocean by the billions, are ingested by marine life, causing blockages, starvation and death to animals. The plastic passes up the food chain to humans who eat fish. Plastic microbeads absorb harmful chemicals, including persistent toxins such as DDT.

The federal Act already regulates any "rinse off" cosmetic or "rinse-off" cosmetic that is also a non-prescription drug. This bill explicitly excludes regulation of "rinse off" products; it only regulates "leave on" products not covered by the 2015 federal law.

Plastic microbeads includes those made from bio-plastics or biomass, as these do not biodegrade or compost in the ocean. Safer naturally occurring alternatives to plastic microbeads are readily available – things that we previously used in exfoliating products before plastic microbeads were substituted – that manufacturers can substitute, such as sand, sea salt, sugar, fruit seeds, oats, rice, bamboo, ground up nut shells, coconut or cocoa husks, etc.

The purpose of this Act is to phase in a prohibition on the manufacture and sale in the State of certain "leave on" personal care products and non-prescription drugs that contain plastic

microbeads. 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 that are already regulated by the federal government pursuant to the federal Act.

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, 2022, no person shall manufacture in the State a personal care product, except for a non-prescription drug, that contains plastic microbeads.

(b) Beginning July 1, 2023, no person shall:

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

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

(c) Beginning July 1, 2024, no person shall sell or offer for sale in the State a non-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 non-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 an 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, **hygiene, skin care, or sun protection**, and any article intended for use as a component of the article. "Personal care product" does not include any prescription drug.

"Plastic microbead" means a ~~[solid]~~ plastic particle that is less than five millimeters in size ~~[and that is intended to be used 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. This Act shall take effect upon its approval.

INTRODUCED BY: _____

Report Title:

Plastic Microbeads; Manufacture or Sale; Personal Care Products; Non-prescription Drugs; Prohibition

Description:

Beginning 7/1/2022: bans the manufacture of a personal care product, except a non-prescription drug, that contains plastic microbeads. Beginning 7/1/2023: bans the sale or offer for sale of a personal care product, except a non-prescription drug, that contains plastic microbeads and bans the manufacture of a non-prescription drug that contains plastic microbeads. Beginning 7/1/2024: bans the sale or offer for sale of a non-prescription drug that contains plastic microbeads. 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.

Please pass this bill as amended in the Proposed SD1 to protect our coral reefs and other marine life from harmful plastic microbead pollution in "leave on" products.

Mahalo!

Hawai'i Reef and Ocean Coalition (by Ted Bohlen)

February 28, 2022

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Hawai'i Senate Committee on Commerce and Consumer Protection

Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Hawai'i Senate Committee on Judiciary

RE: Opposition to SB 2290

Chairs Baker and Rhoads and Vice Chairs Chang and Keohokalole:

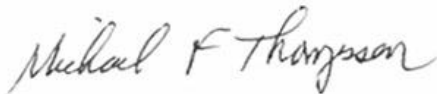
On behalf of the members of the Personal Care Products Council (PCPC),¹ I am writing to express our opposition to SB 2290, legislation to ban the manufacture of a personal care product that contains plastic microbeads.

The 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 the industry responded early and aggressively to concerns over microbeads, even though these ingredients make up a very tiny fraction of plastic litter in waterways. The industry announced a voluntary phase-out of microbeads, and then worked with elected officials, environmental advocacy groups and others to support laws that permanently ban them. 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 2015 and bans the manufacturing of products containing microbeads as of July 1, 2017.

No ingredient commonly used in cosmetics and personal care products has been detected in marine plastic litter. Research looking at the occurrence and environmental fate of ingredients is currently being conducted, although to date there is no evidence to show that personal care products contribute to marine litter. In addition, it is important to note that microbead litter can be effectively removed from water by wastewater treatment plants. In studies conducted in the U.S. and Europe, treatment facilities were found to remove more than 99 percent of these particles. Moreover, the main type of plastic that was detected in these studies was fibers, which were never used in cosmetics.

For all of the above reasons, we respectfully ask for your NO vote on SB 2290. Thank you for your consideration and the opportunity to comment.

Sincerely,



Sr. Vice President, Government Affairs

¹ Founded in 1894, the Personal Care Products Council (PCPC) is the voice and advocate for 600 member companies representing the \$499.6 billion global cosmetics and personal care products industry. PCPC's members represent approximately 90% of the U.S. beauty industry and are some of the most beloved and trusted brands in beauty and personal care today. As the manufacturers, distributors and suppliers of a diverse range of products millions of consumers rely on every day – from sunscreens, toothpaste and shampoo to moisturizer, makeup and fragrance – PCPC's member companies are global leaders committed to product safety, quality and innovation.

LATE

SB-2290

Submitted on: 2/28/2022 12:11:12 PM

Testimony for CPN on 3/1/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Wendy Kuntz	Individual	Support	No

Comments:

I support protecting our environment and our personal health and encourage you to support SB2290 which bans the manufacture of a personal care product, except a non-prescription drug, that contains plastic microbeads.

SB-2290

Submitted on: 2/28/2022 12:43:56 PM

Testimony for CPN on 3/1/2022 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Serena Harris	Individual	Support	No

Comments:

I support this bill and urge you to pass it. It has been shown that these unnecessary additives in our products make their way into our waterways and the oceans, harming wildlife, being taken up into the food chain, and eventually make their way back to us in the foods we consume. This is entirely preventable, and this law is a good step in forcing their eradication in Hawaii. Please pass this bill.



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Executive Officers

Charlie Gustafson, Tamura Super Market, *Chair*
Eddie Asato, Pint Size Hawaii, *Vice Chair*
Gary Okimoto, Safeway, *Secretary/Treas.*
Lauren Zirbel, HFIA, *Executive Director*
John Schliff, Rainbow Sales and Marketing, *Advisor*
Stan Brown, Acosta Sales & Marketing, *Advisor*
Paul Kosasa, ABC Stores, *Advisor*
Derek Kurisu, KTA Superstores, *Advisor*
Toby Taniguchi, KTA Superstores, *Advisor*
Joe Carter, Coca-Cola Bottling of Hawaii, *Immediate Past Chair*

TO:

Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair



Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: March 1, 2022

TIME: 10am

PLACE: Via Videoconference

RE: SB2290 Relating to Microbeads

Position: Oppose

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

HFIA is in opposition to this measure. It's unclear what products this measure is intended to regulate. Microbeads were used in certain personal care products, also known as rinse off cosmetics, until they were phased out by the Microbead-Free Waters Act of 2015.

On the FDA information page about the Act it notes that:

“Under the new law, state or local authorities are not allowed to enact laws or continue to enforce laws that:

- restrict the manufacture of rinse-off cosmetics that contain plastic microbeads, or
- restrict the introduction or delivery of such products into interstate commerce,

unless the state or local restrictions are the same as those of the new federal law that have taken effect.”

The text of the measure states that “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.” However, it fails to explain what products it does intend to regulate. It does not clarify whether or not products that would meet the definition of personal care products contained in the bill, and which contain microbeads, but are not regulated by the FDA even exist. If such products exist this measure does not indicate what these products are, what they’re used for, and if they are manufactured or sold in Hawaii presently.

For these reasons we ask that the measure be held. We thank you for the opportunity to testify.

LATE

SB-2290

Submitted on: 2/28/2022 5:40:17 PM

Testimony for CPN on 3/1/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sophia Daniel	Individual	Support	No

Comments:

Aloha,

I hope all is well. I am Sophia Daniel, a second year college student and the Ecology Club President at Kapi'olani Community College. Please support and pass SB2290, as microbeads are microplastics that play a role in negatively impacting our environment. The small beads can range in different colors such as blue or red and are in hand sanitizer, face and body soaps, pillows, toothpaste and more. Microbeads pollute our land, ocean and harm every living species through the process an individual bead goes on. The bead will go down a sink, shower or storm drain as well as land in the ocean due to wind, passing through storm drain cleaning systems and immediately entering the ocean. When a species digests a bead or beads, this affects species and human health, as the beads absorb bacteria, dirt and oil while moving in the ocean. Human beings also eat seafood, therefore, we are consuming these beads.

Thank you for your consideration and I hope you have a wonderful week!

Sincerely,

Sophia Daniel