



# Ohio Legislative Service Commission

## Bill Analysis

Kelly Bomba

### H.B. 400

131st General Assembly  
(As Introduced)

**Reps.** Patterson and K. Smith, Ramos, Sheehy, Antonio, Phillips, Bishoff

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## BILL SUMMARY

- Prohibits the production, manufacture, sale, and offering for sale of cosmetics or personal care products containing microbeads.
- Establishes civil penalties for violating the prohibition.
- Creates a consumer education program about best practices for microbeads.

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## CONTENT AND OPERATION

### Prohibitions related to microbeads

The bill prohibits any person, firm, partnership, association, limited liability company, or corporation from knowingly doing any of the following in Ohio with respect to cosmetics or personal care products containing microbeads:

- Beginning December 31, 2017, producing or manufacturing any cosmetics or personal care products containing microbeads;
- Beginning December 31, 2018, selling or offering for sale at retail or wholesale any cosmetics or personal care products containing microbeads.

Microbeads are micro-polymer particles, less than five millimeters in diameter, that are made of synthetic or semi-synthetic polymeric materials such as polyethylene, polypropylene, polyethylene terephthalate, polymethyl methacrylate, or a combination of these polymers (essentially, very small plastic beads).<sup>1</sup> A violator is subject to a civil fine of not more than \$1,000 for each day during which the violation occurs and, for a

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<sup>1</sup> R.C. 3715.522 and 3715.523 and Section 3.

subsequent violation, a civil fine of not more than \$2,500 for each day during which the violation occurs.<sup>2</sup> The bill authorizes the Director of Agriculture to adopt rules that the Director considers necessary to implement the bill.<sup>3</sup> (See **COMMENT**, below.)

Personal care products, under the bill, are consumer products manufactured for use in personal hygiene and beautification, including anti-bacterial soaps, hand soaps, bar soaps, liquid soaps, body washes, lotions, moisturizers, facial and body cleansers, facial masks, exfoliating facial scrubs, sunscreens, acne treatment products, shampoos, conditioners, toothpastes, shaving creams and gels, and foot care products.<sup>4</sup>

### **Consumer education program**

The bill requires the Directors of Agriculture, Environmental Protection, Natural Resources, and Health to jointly adopt rules in accordance with the Administrative Procedure Act to develop and implement a consumer education program to educate the public about best practices for microbeads, including all of the following information:

- How to properly dispose of cosmetics and personal care products containing microbeads;
- Alternatives to cosmetics and personal care products that contain microbeads;
- Other information the Directors consider necessary.

The bill requires the Directors to make the information listed above available on the websites maintained by the Department of Agriculture, the Environmental Protection Agency, the Department of Natural Resources, and the Department of Health. The bill allows the Directors to disburse the information by any other methods the directors deem appropriate.

The bill requires the Directors to jointly evaluate the need for the consumer education program ten years after the program is established. If the Directors conclude that the program is no longer needed, the bill requires the program to be terminated.<sup>5</sup>

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<sup>2</sup> R.C. 3715.99(F).

<sup>3</sup> R.C. 3715.522(C) and 3715.523(B).

<sup>4</sup> R.C. 3751.522.

<sup>5</sup> R.C. 3715.524.



## Effective date

As noted above, the bill's prohibitions against the sale or offering for sale of cosmetics or personal care products containing microbeads take effect on December 31, 2018. The bill's remaining provisions, including the prohibition against producing or manufacturing cosmetics or personal care products containing microbeads, take effect on December 31, 2017.<sup>6</sup>

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## COMMENT

The bill's prohibitions may be preempted by federal law. The federal Microbead-Free Waters Act of 2015 prohibits the manufacture, introduction, or delivery for introduction into interstate commerce of rinse-off cosmetics containing intentionally added plastic microbeads. The Act specifically states that it preempts state law with respect to restricting the manufacture, introduction, or delivery for introduction into interstate commerce of rinse-off cosmetics containing plastic microbeads if the restrictions are not identical to the restrictions under the Act.<sup>7</sup>

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## HISTORY

ACTION	DATE
Introduced	11-24-15

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<sup>6</sup> Section 3.

<sup>7</sup> Pub. L. 114 - 114.

