

STRICKEN AS OF 1/29/2015

Intro. Res. No. 1736-2014
Introduced by Legislators Hahn and Stern

Laid on Table 7/29/2014

**RESOLUTION NO. -2015, ADOPTING LOCAL LAW
NO. -2015, A LOCAL LAW TO BAN THE SALE OF
PERSONAL CARE PRODUCTS CONTAINING MICROBEADS
IN SUFFOLK COUNTY**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on July 29, 2014, a proposed local law entitled, "**A LOCAL LAW TO BAN THE SALE OF PERSONAL CARE PRODUCTS CONTAINING MICROBEADS IN SUFFOLK COUNTY**;" now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2015, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO BAN THE SALE OF PERSONAL CARE
PRODUCTS CONTAINING MICROBEADS IN SUFFOLK
COUNTY**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the County of Suffolk is a leader in preserving the environment and clean water for the health, safety and enjoyment of its residents and visitors.

This Legislature also finds and determines that over the past ten (10) years, manufacturers of a variety of personal care products added small plastic beads, commonly known as microbeads, to their products.

This Legislature further finds and determines that microbeads are made of polyethylene or polypropylene plastic.

This Legislature finds that microbeads can be found in facial scrubs, body wash, toothpaste, soaps and shampoos.

This Legislature determines that microbeads are very small, with many measuring less than 1 millimeter.

This Legislature also finds that microbeads enter the waste water system when a product is used and washed off the body. Due to their small size, microbeads are not filtered out by wastewater treatment systems.

This Legislature further finds that microbeads can become coated with toxic chemicals like PCBs, DDT, flame retardants and other industrial chemicals.

This Legislature also determines that the microbeads are similar in size to the food sources for a number of fish, leading fish to ingest them and the toxins that cling to the microbeads, contaminating the food chain.

This Legislature further determines that microbead pollution has been found in the Great Lakes as well as the Los Angeles River and the Pacific Ocean.

This Legislature finds that Suffolk County would be directly impacted by the health hazards associated with contaminated seafood, should local waterways be polluted with microbeads.

This Legislature also finds that microbeads can be easily replaced in personal care products by natural exfoliates such as pumice, oatmeal, apricot and ground walnut husks.

This Legislature further determines that the sale of personal care products containing microbeads has been banned in the State of Illinois.

This Legislature also finds that Suffolk County should bar products containing microbeads to protect the Atlantic Ocean, Long Island Sound, and the many surface waters within the County.

Therefore, the purpose of this law is to ban the sale of personal care products containing microbeads in Suffolk County.

Section 2. Definitions.

In this law, the following terms shall have the meaning indicated:

“COSMETICS” shall mean consumer products manufactured for use in beautification. Cosmetics shall include, but not be limited to, lip gloss, lipstick, lip balm, lip liner, eye shadow, eye liner, mascara, blush, foundation, concealer, powder, primer, blemish cover sticks, bronzer, skin lightening cream and hair and makeup removal products.

“MICROBEADS” shall mean micro polymer particles less than 5 millimeters in diameter, that are made of synthetic or semi synthetic polymeric materials, including, but not limited to, polyethylene, polypropylene, polyethylene terephthalate, polymethyl, methacrylate, or any combination of such polymers.

“PERSON” shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association or any other entity or business organization of any kind.

“PERSONAL CARE PRODUCT” shall mean any consumer product manufactured for use in personal hygiene and beautification. Personal care products shall include, but not be limited to, antibacterial 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, toothpaste, shaving creams or gels and foot care products. This term shall not apply to any product for which a prescription is required for distribution or dispensation as provided in NYS PUBLIC HEALTH LAW § 281 or NYS EDUCATION LAW § 6810.

Section 3. Prohibitions.

- A. No person shall sell or offer for sale any cosmetic or personal care product which contains microbeads within the County of Suffolk.
- B. This prohibition shall not apply to any personal care product that is regulated as a drug by the United States Food and Drug Administration.

Section 4. Penalties.

- A. Any person who violates any portion of this law shall be subject to a civil fine of up to \$250 for a first offense, a fine of up to \$500 for a second offense and a fine of up to \$1,000 for all subsequent violations. Each act in violation of this law shall be considered a separate and distinct violation.
- B. No penalties shall be imposed by the Department of Health Services until a hearing is held by the Commissioner or his or her designee and the alleged violator is given an opportunity to be heard.

Section 5. Enforcement.

This law shall be enforced by the Suffolk County Department of Health Services in accordance with the provisions of Article II, §§ 760-202 through 760-220, of the Suffolk County Sanitary Code.

Section 6. Authority to Promulgate Rules and Regulations.

The Commissioner of the Suffolk County Department of Health Services is hereby authorized and empowered to promulgate such rules and regulations as he or she deems necessary to implement this law.

Section 7. Applicability.

This law shall apply to all sale of cosmetics and personal care products occurring on or after the effective date of this law.

Section 8. Reverse Preemption.

This local law shall be null and void on the day that federal and statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Suffolk. The County Legislature may determine via duly enacted resolution whether or not identical or substantially similar federal or statewide legislation, or pertinent preempting state or federal regulations have been enacted for the purpose of triggering the provision of this section.

Section 9. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or

unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 10. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 11. Effective Date.

This law shall take effect one hundred eighty (180) days following its filing in the Office of the Secretary of State.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: