



**STATE OF HAWAII  
DEPARTMENT OF HEALTH**

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

SENATOR KARL RHOADS, CHAIR  
SENATE COMMITTEE ON JUDICIARY

Hearing Date: 2/27/2020

Room Number: 016

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



February 26, 2020

Senator Karl Rhoads, Chair  
Senator Jarrett Keohokalole, Vice Chair  
Committee on Judiciary  
State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Chair Rhoads and Vice Chair Keohokalole:

As a coalition of health, wellness and business organizations, we respectfully request that you oppose SB 2326, 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 unnecessary. We respectfully ask for your NO vote on SB 2326.

# Beach Environmental Awareness Campaign Hawai'i

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

(808) 393 2168 · [www.b-e-a-c-h.org](http://www.b-e-a-c-h.org)

DATE: Wednesday 26th February, 2020.

TO: Chair Karl Rhoads, Vice-Chair Keohokalole and Members of the Committee on Judiciary

FROM: Suzanne Frazer, President, Beach Environmental Awareness Campaign Hawai'i

RE: **TESTIMONY IN OPPOSITION TO SB2326 SD1**  
Relating to microbeads  
Committee meeting on Thursday 27th February, 2020 at 10:30AM, room 016.

Aloha Chair Rhoads, Vice-Chair Keohokalole 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 **oppose SB2326**.

In Section 1 of SB2326 the only purpose of the bill stated is “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”. Other than this, there is no further reason given. So it appears this bill is not about mitigating the harm of microbeads that are still allowed in “leave on” products.

It would seem pertinent to start with 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.”

This kind of a purpose statement about the environmental impacts of 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.”

I have highlighted and put in italics the difference in the size measurement of a microbead in the two definitions above. In the Federal bill, the definition covers all microbeads less than 5 mm. In SB2326 it misses out most microbeads because the definition refers to microbeads 2mm or larger. Most microbeads are the size of a grain of salt or sand which is about 1mm or smaller. Therefore the definition in SB2326 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 real ban on plastic microbeads 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 plenty of naturally occurring alternatives for plastic microbeads including sand, salt, sugar, fruit seeds, oats, rice, bamboo, ground up nut shells, etc. Before the mid-90’s plastic microbeads were not even used by the personal care product industry in their products. The mid-90’s was a short time ago. 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. This is really a way to rip off the customers who are expecting that they are buying 100% product, not a product bulked up with plastic. Banning plastic microbeads would put an end to this kind of scam that the public has been subjected to. The personal care industry makes billions of dollars off their products. Many of which contain all kinds of chemicals and types of plastic without regard for the consequences to human health, marine life, the food chain and the environment. It is time that the industry took full responsibility for the mess they have created and stop trying to create more loopholes in laws in order to continue using plastic in their products. Our world is in dire straits with plastic in the air, water, ground and food and it’s up to everyone to do their part to stop plastic pollution. That includes industry. It’s simple. Just stop using 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.

Also in the definition is that plastic is extruded at “high heat into various solid forms”. This is not inclusive of all plastic. Some is not created with high heat but with low heat. Some plastic is not even solid. Some of the plastic added to beauty products is a liquid form of plastic.

A ban on all plastic microbeads is needed. Unfortunately this bill does not achieve this due to loopholes in the definitions of “plastic” and “synthetic plastic microbead”.

**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.

It is important to ban the sale and manufacture in Hawai'i of plastic microbeads in personal care products as they are not able to be removed at wastewater facilities and therefore they get discharged into the ocean. These plastic microbeads are so small they can't be removed from the ocean or from the beach if they wash ashore.

The whole food chain is affected by plastic in the ocean. Plankton has been found to be ingesting plastic. All plastic is made with chemicals and there are also chemicals that attach onto the plastic in the ocean - these are persistent organic pollutants such as DDT, DDE and dioxins. POPs attach to all plastics including fossil fuel derived and biomass derived. The chemicals in and on plastic in the ocean are passed through the food chain, bioaccumulating along the way. These chemicals cause cancer and other diseases. For all these reasons above, all plastic microbeads need to be banned.

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

Sincerely,



Suzanne Frazer.  
President, Co-Founder,  
B.E.A.C.H.



*Beach Environmental Awareness Campaign Hawai'i is an all volunteer, non-profit organization that brings awareness and solutions to marine debris through environmental education, plastic reduction/litter prevention campaigns, and marine debris removal and research in order to protect Hawai'i's marine life, sea birds and the ocean/coastal environment.*

**SB-2326-SD-1**

Submitted on: 2/24/2020 6:53:31 PM

Testimony for JDC on 2/27/2020 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

**SB-2326-SD-1**

Submitted on: 2/24/2020 10:14:32 PM

Testimony for JDC on 2/27/2020 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Climate Protector	Testifying for Climate Protectors Coalition	Support	No

Comments:

Let's end this unnecessary and harmful use of petroleum-based plastics that contribute to the climate crisis!



**SB-2326-SD-1**

Submitted on: 2/25/2020 12:37:27 AM

Testimony for JDC on 2/27/2020 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Madhuri Prabhakar	Testifying for Plastic Soup Foundation	Oppose	No

Comments:

The [Beat the Microbead](#) coalition, running since 2012 and supported by 98 NGOs from 41 countries, is fighting against the use of microplastics in cosmetics and personal care products. Intentionally added microplastics are likely to accumulate in terrestrial and aquatic environments. They can be extremely persistent, last for thousands of years and are practically impossible to remove. Concentrations in hotspots like some coastal areas already exceed tentative effect thresholds. Microplastics should, therefore, be restricted to minimize release as the current situation is not adequately controlled.

According to us, all microplastics should be restricted if they are persistent, bio-accumulative and toxic in the environment or to our health, regardless of their ***external dimension, water-solubility, lower size limit, their function in leave-on and rinse-off products.***

The extensive [Beat the Microbead](#) products database shows that many cosmetic products contain so-called “liquid microplastic” ingredients that are also very persistent and not easily biodegradable.

Therefore, a restriction on microplastics should not exempt liquid microplastics and should not adopt a lower size limit of 1 nanometer. Especially, because [nano-plastics are increasingly proving to be a potential threat to marine and terrestrial life](#), including humans.

Please have a look at our position paper on intentionally added microplastics: <https://www.beatthemicrobead.org/wp-content/uploads/2019/07/Position-Paper-BTMB-2019.pdf>

Additionally, natural alternatives for these substances are widely available; the restriction of microplastics would enhance the market for alternatives. The Plastic Soup Foundation provides the '[Look for the Zero](#)' certification as part of the Beat the Microbead campaign. The ingredients of every product sold under a “Zero” brand are checked for microplastics. Companies that embrace the Zero make the statement that their personal care products are completely free of microplastics. There are currently more than **70 brands from around the world that are certified under our ‘Zero**

**Plastic Inside' certification.** Indisputably, this provides ample evidence that microplastics are not an indispensable ingredient for cosmetic products.

This is a very important opportunity for Hawaii to ban microplastics once and for all and become a leading example in the world. We hope that the Hawaii government will consider the loopholes in the current proposal and make stronger legislation against intentionally microplastics used in cosmetics and personal care products.

**SB-2326-SD-1**

Submitted on: 2/25/2020 5:33:58 AM

Testimony for JDC on 2/27/2020 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Victoria Anderson	Individual	Oppose	No

Comments:

We need to pass a much stronger bill than this. This bill pre-empts counties from passing a stronger ban, does not even mention the environment (as it's an industry bill) and will result in replacing one plastic microbead with another plastic microbead because of the language in the bill. Please oppose this bill.

**SB-2326-SD-1**

Submitted on: 2/25/2020 12:24:34 PM

Testimony for JDC on 2/27/2020 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Zachary LaPrade	Testifying for Calypso Charters	Support	No

Comments:

**SB-2326-SD-1**

Submitted on: 2/26/2020 12:21:15 AM

Testimony for JDC on 2/27/2020 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jennifer Azuma Chrupalyk	Individual	Support	No

Comments:

I've consulted the teenage panel, two of whom are already voters, and we have decided that products consistent with ingredients like these are completely unnecessary, not good for our bodies, and contribute to the detriment of our environment. The teenage panel would like to share a better earth than what was left for us. They are afraid that what happened on Kaho'olawe this past few days, could happen here and we'd have no place to go. Our islands are riddled with all kinds of artillery that could contribute to the decimation of Hawai'i's residency. These young adults are growing up fearful for their futures. And we are the ones who have to look them in the face each day, and explain why we couldn't do better. Nobody knows how much time we waste like our kids do. Let's give them something to believe in, by investing in conservation programs and environmental education. We don't need this chemical based junk.

**LATE**

**SB-2326-SD-1**

Submitted on: 2/26/2020 4:35:10 PM

Testimony for JDC on 2/27/2020 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Cathy Goeggel	Testifying for Animal Rights Hawai'i	Support	Yes

Comments:

**LATE**

**SB-2326-SD-1**

Submitted on: 2/26/2020 6:36:40 PM

Testimony for JDC on 2/27/2020 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa-ann Pang	Individual	Oppose	No

Comments:

**Please hold SB2326 SD1, relating to synthetic plastic microbeads, in committee as it needs extensive amendments concerning language and definitions. A thorough ban on all products that are manufactured and for sale with synthetic plastic microbeads is needed. Personal care products, non-prescription drugs, including rinse-off cosmetics and rinse-off cosmetics that are also non-prescription drugs that are manufactured with synthetic plastic microbeads is a gimmick by manufacturers. There is no benefit to the product only to the manufacturer as it adds volume. Please hold SB2326 SD1 in committee as it needs extensive amendments concerning language and definitions.**



**LATE**

February 26, 2020

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

Re: **SB 2326, SD1– relating to microplastics in the marine environment**

Decision Making: Thursday, February 27, 2020, 10:30 a.m. Room 016

Position: **STRONG OPPOSITION UNLESS AMENDED**

Aloha, Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee,

The HAWAI'I REEF AND OCEAN COALITION – HIROC – was formed in 2017 by coral reef scientists, educators, local Hawaii environmental organizations, elected officials, and others to address a crisis facing Hawaii's coral reefs and ocean – namely, the pollution of our near-shore environment by sunscreens that are literally killing our marine life. We are currently asking the Legislature to pass a handful of very important bills to save our coral reefs – they are bills relating to sunscreens, plus bills on cesspools, plastic marine debris, the climate crisis and sea-level rise.

Coral reefs, seabirds, turtles and many other marine species are in crisis! They are suffering damage from marine debris, including plastics and the microplastics that result when plastics break down. Corals and many marine species also face assaults from rising ocean temperatures, increasingly acidic oceans, sewage and polluted runoff, sunscreens and depleted fish stocks. Coral bleaching and death are widespread. This is an existential problem for our State because reefs are critical in protecting Hawai'i beaches and shorelines.

Microbeads are one type of plastic marine debris. They are trillions of tiny but harmful plastic particles used in many personal care products. HIROC is urgently concerned in seeing effective regulation of microbeads beyond the rinse-off cosmetics



covered by the federal act. Microbeads are too small to be filtered out by sewage treatment plants in Hawaii. When the microbeads enter the ocean, they become plastic marine debris and act as sponges, absorbing toxic pollutants that are passed up the marine food chain to other marine creatures, and eventually humans, causing significant impacts on marine species and potentially human health.

This present bill is **SERIOUSLY DEFECTIVE** in that it deviates significantly from the bipartisan 2015 Federal Microbeads Free Waters Act, which related only to rinse-off cosmetics. This present bill creates an unfortunate loophole by defining microbeads as greater than 2 millimeters in size, instead of following the federal definition of less than 5 millimeters. Most microbeads are smaller than 2 millimeters, and they would not be covered under this draft bill. This bill must be amended to eliminate this loophole and cover the microbeads under 2 millimeters in size as well. Accordingly, we urge that the definition of “Synthetic plastic microbead” in the bill be amended to read as follows:

“any intentionally added solid plastic particle measuring five millimeters in size or smaller”

Also, since the bill would preempt county ordinances regulating microbeads, counties could not adopt more effective microbead regulations. This creates a very serious problem. We urge deletion of this pre-emption provision, although amendment of the definition of “Synthetic plastic microbead” would help resolve this problem.

Please amend the present bill by correcting the definition of microbeads to be less than five millimeters or else defer the bill. Thank you very much for the opportunity to testify on this complex set of issues.

Alan B. Burdick, for HIROC  
[Burdick808@gmail.com](mailto:Burdick808@gmail.com) 486-1018