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	<p>Public Law No. 114-114, H.R. 1321 Federal Microbead-Free Waters Act</p>	<p>H.4. An Act relating to Prohibiting the Manufacture or Sale of Personal Care Products and Over-the-Counter Drugs Containing Microbeads</p>	<p>Assembly Bill 888: Plastic Microbeads Nuisance Prevention Law</p>
<p>Generally</p>	<p>Prohibits the manufacture or the introduction of delivery for introduction into interstate commerce of a <u>rinse-off cosmetic</u> that contains intentionally added <u>plastic microbeads</u>.</p>	<p>Prohibits the manufacture, sale, offer for sale, offer for promotion, or other distribution of <u>personal care products or over-the-counter drugs</u> that contain <u>synthetic plastic microbeads</u>.</p>	<p>Prohibits the sale or offer for promotional purposes of any <u>personal care products</u> containing <u>plastic microbeads</u>.</p>
<p>Timing of Ban on Rinse-off Cosmetics and Personal Care Products</p>	<p>Except for a rinse-off cosmetic that is a nonprescription drug, the prohibition applies with respect to manufacturing of a <u>rinse off cosmetic</u>, beginning on July 1, 2017, and with respect to introduction or delivery for introduction of a <u>rinse off cosmetic</u> into interstate commerce, beginning on July 1, 2018.</p>	<p>Beginning on December 31, 2017, no person shall manufacture in the State a <u>personal care product</u> that contains synthetic plastic microbeads, except for an over the counter drug.</p> <p>Beginning on December 31, 2018, no person shall sell, offer for sale, offer for promotion, or otherwise distribute in the State a <u>personal care product</u> that contains synthetic plastic microbeads, except for an over the counter drug.</p>	<p>On and after January 1, 2020, a person shall not sell or offer for promotional purposes in this state any <u>personal care products</u> containing plastic microbeads that are used to exfoliate or cleanse in a <u>rinse-off</u> product, including, but not limited to, toothpaste.</p> <p>Does not apply to a person that sells or offers for promotional purposes a personal care product containing plastic microbeads in an amount less than 1 part per million (ppm) by weight.</p>
<p>Timing of Ban on Nonprescription Drugs and Over the Counter Drugs</p>	<p>The prohibition applies in the case of a <u>rinse-off cosmetic that is a nonprescription drug</u>, with respect to manufacturing, beginning on July 1, 2018, and with respect to the introduction or delivery for introduction into interstate commerce, beginning on July 1, 2019.</p>	<p>Beginning on December 31, 2018, no person shall manufacture in the State an <u>over the counter drug</u> containing synthetic plastic microbeads.</p> <p>Beginning on December 31, 2019, no person shall sell, offer for sale, offer for promotion, or otherwise distribute in the State an <u>over the counter drug</u> that contains synthetic plastic microbeads.</p>	<p>Does not apply to over the counter or nonprescription drugs.</p>
<p>Definition of Microbead</p>	<p>“Plastic microbead” means any <u>solid plastic particle that is less than five millimeters in size</u> and is intended to be used to exfoliate or cleanse the human body or any part thereof</p>	<p>“Synthetic plastic microbead” means an intentionally added nonbiodegradable <u>solid plastic particle less than five millimeters in size</u>.</p>	<p>“Plastic microbead” means an intentionally added <u>solid plastic particle measuring five millimeters or less</u> in every dimension.</p>
<p>Definitions of Cosmetics/Personal Care Products</p>	<p>“Cosmetic” means (1) articles 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 (2) articles intended for use as a component of any such articles; <u>except that such term shall not include soap</u>. (21 U.S.C. § 321)</p>	<p>“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 any such article.</p>	<p>“Personal care product” means an article intended to be rubbed, poured, sprinkled, or sprayed on, introduced to, or otherwise applied to, the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and an article intended for use as a component of that type of article.</p> <p>“Personal care product” does not include a prescription drug.</p>

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Definition of Rinse Off	No definition of “rinse off cosmetic” or “rinse off” except that “rinse-off cosmetic includes toothpaste.”	Does not apply only to rinse-off products.	No definition of “rinse off” provided.
Definitions of Nonprescription Drug and Over the Counter Drug	“Nonprescription drug” means a drug not subject to section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)(1)). 21 U.S.C. § 353(b)(1) is the FDA requirement that a drug be prescribed by a qualifying health care professional.	“Over the counter drug” means a compound, substance, or preparation that contains a label that identifies the product as a drug, as required by 21 C.F.R. § 201.66, and that includes a drug facts panel or a statement of the active ingredient or ingredients contained in the compound, substance, or preparation.	None provided.
Express Preemption	No State or political subdivision of a State may directly or indirectly establish under any authority or continue in effect restrictions with respect to the manufacture or introduction or delivery for introduction into interstate commerce of rinse-off cosmetics containing plastic microbeads that are not identical to the [federal] restrictions under 21 U.S.C. § 331(ddd).		
Construction	Nothing in this Act (or the amendments made by this Act) shall be construed to apply with respect to drugs that are not also cosmetics (as such terms are defined in section 201 of the FFDCA (21 U.S.C. 321)).		
Possible Remaining State Jurisdiction		Personal care products that that are not rinse off cosmetics, including soap. Over the counter drugs that contain microbeads that are not also cosmetics.	
FDA Regulatory Authority	Because rinse-off is not defined and is potentially ambiguous, the federal Food and Drug Administration has authority to define the term by rule. In so doing, the FDA rule could further limit the class of cosmetics that are subject only to federal regulation.		