

LOCAL LAW TO BE ENACTED BY  
THE ERIE COUNTY LEGISLATURE  
IN THE  
COUNTY OF ERIE

LOCAL LAW INTRO No. 8-2 (2015)

**A Local Law in relation to prohibiting the sale of personal cosmetic products containing microbeads in Erie County**

**Section 1: Legislative Findings and Intent**

The Legislature hereby makes the following findings and determinations:

- a) The Legislature hereby finds and determines that microbeads, a synthetic alternative ingredient to such natural materials as ground almonds, oatmeal and pumice, found in over one hundred personal cosmetic products, including facial cleansers, shampoos and toothpastes, pose a serious threat to Erie County's environment. Microbeads have been documented to collect harmful pollutants, already present in the environment, and harm fish and other aquatic organisms that form the base of the aquatic food chain. Microbeads have been found in high quantity in New York State's water bodies, and in particular, the waters of Lake Erie.
- b) Research has indicated that the majority of these microbeads are entering bodies of water through disposal down household drains following the use of such personal cosmetic products. Without significant and costly improvements to Erie County's sewage treatment facilities, microbeads contained in personal cosmetic products will continue to pollute Lake Erie and other water bodies within Erie County.

**Section 2: Definitions:**

As used in this Local Law, the following terms shall have the meanings indicated:

- a) "Microbead" shall mean any intentionally added plastic particle measured to be five millimeters or less in size used to exfoliate or cleanse in a personal care product.
- b) "Personal care product" shall mean any (a) 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, including but not limited to soap, exfoliates, shampoos, toothpastes and scrubs, and (b) article intended for use as a component of any such article. The term "personal cosmetic product" shall not include any product for which a prescription is required for distribution or dispensation as provided in section two hundred eighty-one of New York State Public Health Law or Section six thousand eight hundred ten of New York State Education Law.

**Section 3: Restrictions on the Sale of Microbeads in Erie County**

It shall be unlawful for any person, firm, corporation, or any other entity no matter how constructed to sell, offer or expose for sale, give or furnish any personal cosmetic product which contains microbeads as defined herein.

#### **Section 4: Enforcement**

- a) The County of Erie through its Department of Public Works Division of Weights and Measures (“the Division”) shall have sole jurisdiction to enforce the provisions of this local law.
- b) Any person, firm, corporation, or other entity who violates section 3 of this local law shall be liable for a civil penalty not to exceed two thousand five hundred dollars for each day during which such violation continues, and in addition thereto, such person, firm, corporation, or other entity may be enjoined from continuing such violation. For a second violation, such person, firm, corporation, or other entity shall be liable for a civil penalty not to exceed five thousand dollars for each day during which such violation continues, and in addition thereto, such person, firm, corporation, or other entity may be enjoined from continuing such violation.
- c) The Erie County Attorney may bring an action in the name of Erie County or the Erie County department of Public Works division of Weights and Measures to recover the civil penalty provided by this local law in any court of competent jurisdiction.

#### **Section 5: Reverse Preemption**

This local law shall be null and void on the day that state-wide or federal 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 Erie. The Erie County Legislature shall determine by resolution whether or not identical or substantially similar state-wide legislation has been enacted for purposes of triggering the provisions of this section.

#### **Section 6: Severability**

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, or Business 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 specific application.

#### **Section 7: Effective Date**

This local law shall become effective 180 days after filing with the Secretary of State.

**Sponsor: Legislator Patrick B. Burke**

**Co-Sponsor: Legislator John J. Mills**