

December 11, 2014

**ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY BILL NO. 3083**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning the Assembly Committee Substitute for Assembly Bill No. 3083 with my recommendations for reconsideration.

This bill generally seeks to phase in a prohibition on the manufacture and sale of personal care products containing "microbeads." Microbeads are small, plastic pellets commonly found in exfoliating washes, toothpaste, and other personal cleansers and beauty products. Because of their small size, wastewater treatment systems are unable to filter out microbeads from treated water, meaning that microbeads eventually wind up in the State's waterways, potentially impacting fragile ecosystems. To address this problem, this bill would ban the manufacture of microbead-containing personal care products within the State beginning in 2018, and prohibit the sale of these products within the State beginning in 2019. The bill also contains a similar ban on the manufacture and sale of over-the-counter drugs containing microbeads.

Generally speaking, a bill seeking to ban such products would raise concerns about the impact of such a ban on businesses. However, I am advised that the manufacturers of these products plan to phase out the use of plastic microbeads in the near future. As a result, this bill received the support of groups representing both manufacturers and retailers of products covered by this bill.

Nevertheless, although representatives of the affected industry expect that microbead-containing products will be off the market by the time the prohibitions in this bill would take

effect, I can foresee a circumstance where a small retailer, perhaps unwittingly, continues to offer microbead-containing products for sale after the ban is in place. Under the bill, the retailer would be subject to draconian penalties of up to \$10,000 per product, per day. A few tubes of out-of-date face wash combined with overzealous enforcement of this ban could easily drive a small business owner into bankruptcy.

Although I do not think that the Legislature envisioned that business owners would be penalized in the foregoing manner, it nonetheless makes sense to rein in the penalties contained in this bill to prevent the possibility of crippling punishments. Therefore, I recommend that the bill be amended to impose a maximum fine of \$500 per violation, and to remove the language concerning offenses that are continuing in nature. Finally, I recommend that it be made clear that these penalties may be pursued only by the Commissioner of Environmental Protection, and not private parties.

Accordingly, I herewith return the Assembly Committee Substitute for Assembly Bill No. 3083 and recommend that it be amended as follows:

<u>Page 2, Section 3, Line 45:</u>	Delete "not less than \$1,000 and"
<u>Page 2, Section 3, Line 45:</u>	Delete "\$10,000" and insert "\$500"
<u>Page 2, Section 3, Line 46:</u>	After "collected" insert "by the Commissioner of Environmental Protection"
<u>Page 3, Section 3, Line 1:</u>	Delete "If the violation is of a"
<u>Page 3, Section 3, Line 2:</u>	Delete in its entirety
<u>Page 3, Section 3, Line 3:</u>	Delete "additional, separate, and distinct offense."

Page 3, Section 3, Line 10:

Insert "c. Nothing set forth in this act shall be construed as creating, establishing or authorizing a private cause of action by an aggrieved person against a person who has violated, or is alleged to have violated, the provisions of this act."

[seal]

Respectfully,

/s/ Chris Christie

Governor

Attest:

/s/ Christopher S. Porrino

Chief Counsel to the Governor