SENATE, No. 4836

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 15, 2026

Sponsored by:
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

SYNOPSIS

"Protecting Against Microplastics Act"; appropriates $3 million.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning microplastics, supplementing Title 56 and Title 13 of the Revised Statutes, and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the "Protecting Against Microplastics Act."

2. As used in this act:

"Chewing gum" means a soft, cohesive, insoluble plastic substance intended for chewing, not intended to be swallowed, and occasionally sweetened or flavored.

"Cosmetic" means the same as that term is defined in R.S.24:1-1.

"Department" means the Department of Environmental Protection.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Foodware" means any nondurable package or service ware, such as bowls, plates, cups, lids, utensils, trays, straws, stirrers, clamshells, cutting boards, cookware, and bakeware that is used for containing, holding, packaging, serving, or consuming prepared food and beverages whether for single-use or reusable items. "Foodware" includes sustainable foodware.

"Intentionally added microplastic" means an artificial monomer chain, added to a product or deliberately used during the development of a product or one of its product components, to provide a specific characteristic, appearance, or quality or to perform a specific function. "Intentionally added microplastic" shall not include a technically unavoidable trace quantity of a synthetic polymer microplastic, which stems from impurities of natural or synthetic ingredients or the manufacturing process, storage, or migration from packaging of the product or product component.

"Label" means a display of written, printed, or graphic material that is affixed to a product or its immediate container or wrapper.

"Manufacturer" means a person that manufactures a product or whose brand name is affixed to the product. In the case of a product imported into the United States, "manufacturer" includes the importer or first domestic distributor of the product, if the person that manufactured or assembled the product or whose brand name is affixed to the product does not have a presence in the United States.

"Microplastic" means a material, five millimeters or less in diameter, composed of synthetic polymers and chemical additives, that has been added to a product over the course of the manufacturing or industrial process.

"Particle" means a minute piece of matter, other than single molecules, with defined physical boundaries.

"Plastic" means the same as that term is defined in section 1 of P.L.2021, c.391 (C.13:1E-99.135).

"Polymer" means a synthetic material made of long and repeating molecular chains derived from petrochemicals.

"Potentially ingestible product" means any product which is edible, designed to be applied to the facial area, or capable of being swallowed or inhaled, which shall include, but not be limited to, chewing gum, tea bags, coffee grounds, talcum powder, and pet food.

"Product" means an item manufactured, assembled, packaged or otherwise prepared for sale to consumers, including its product components, sold or distributed for personal, residential, commercial or industrial use, including for use in making other products. "Product" does not mean used products offered for sale or resale.

"Secondary microplastics" means a discrete source of plastic materials or microplastics, other than the source material, that have been broken down into microplastics by various environmental pathways, and which are released when the source material degrades. A biproduct of intentionally added microplastic particles may include toxic monomers, plasticizers including phthalates and bisphenols, styrene, dioxins, free radicals, and other persistent organic pollutants, which may be more reactive, harmful, and persistent than intact source plastics.

"Synthetic polymer microparticle" means a molecule of chained monomer plastics that are solid and artificially produced. The term "synthetic polymer microparticle" does not include polymers that are the result of a polymerization process that has taken place in nature, rather than as a result of human intervention, independently of the process through which those polymers have been extracted, which are not chemically modified substances.

"Sustainable foodware" means foodware that is made to be reused or that is made from biodegradable or recyclable material, which enables the product to be composted, recycled, or biodegraded. "Sustainable foodware" does not include foodware consisting of petroleum products.

"Tea bag" means a small, porous bag, sachet, or packet containing tea leaves or the leaves of other herbs, which are immersed in water to steep to make an infusion.

"Trade secret" means information, held by one or more people, without regard to form, including a formula, pattern, business data compilation, program, device, method, technique, design, diagram, drawing, invention, plan, procedure, prototype or process, that:

(1) Derives independent economic value, actual or potential, from not being generally known to, and not being readily

ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

3. Beginning one year after the effective date of this act, manufacturers of cleaning, cosmetic, foodware, or potentially ingestible products sold in the State shall disclose, in a product label on the exterior of a product, the presence of intentionally added microplastic, or potential for generation of other secondary microplastics.

4. a. Beginning two years after the effective date of this act, a manufacturer of cleaning, cosmetic, foodware, or potentially ingestible products sold in the State that contain intentionally added microplastics, or could generate synthetic polymer microparticles or other secondary microplastics, shall list in a product label on the handle of the product or in any product surface that comes into contact with food, foodstuffs, or beverages, the presence of the intentionally added microplastics, or potential for generation of synthetic polymer microparticles or other secondary microplastics.

b. The product label of a product containing microplastics shall include a statement, in both English and Spanish, that reads: "This product contains microplastics."

c. A manufacturer of a product sold in the State shall ensure that the statement required on the product label pursuant to subsection b. of this section is visible and legible to the consumer, including on the product listing for online sales.

d. Beginning two years after the effective date of this act, a manufacturer shall not make a claim, on the product label or Internet website for the product, that the product is free of microplastics if microplastics were intentionally added to the product.

e. Products that meet both of the following requirements shall be exempt from the labeling requirements of this section:

(1) the surface area of the product cannot fit a product label of at least two square inches; and

(2) the product does not have either of the following:

(a) an exterior container or wrapper on which a product label can appear or be affixed; or

(b) a tag or other attachment with information about the product attached to the product.

f. The provisions of this section shall not apply to a product that contains intentionally added microplastics only in electronic components or internal components of the product.

g. Notwithstanding the provisions of this section to the contrary, any product with a product label that lists the presence of microplastics or which could generate synthetic polymer

microparticles or secondary microplastics pursuant to another state or federal law shall be deemed in compliance with the requirements of this section.

5. a. Beginning three years after the effective date of this act, no person shall sell, offer for sale, or distribute for sale in the State any cleaning, cosmetic, or potentially ingestible products, if those products contain intentionally added microplastics, or could generate synthetic polymer microparticles or other secondary microplastics.

b. If any of the products enumerated in subsection a. of this section contain a technically unavoidable trace quantity of microplastics, which stem from impurities of natural or synthetic ingredients or the manufacturing process, storage, or migration from packaging of the product, that trace quantity shall not cause the product to be in violation of this section.

6. The division may audit or investigate a manufacturer of a product covered under the provisions of this act to assess the manufacturer's compliance with the requirements of this act. The division shall be authorized to audit, or cause to be audited, a random sample of manufacturers of products covered under the provisions of this act in order to determine compliance with this act. A manufacturer shall cooperate fully with any audit or investigation conducted pursuant to this section. The division may require a manufacturer to pay the costs of an audit conducted pursuant to this section.

7. a. Whenever the division finds that a person has violated any provision of this act, or any rule or regulation adopted pursuant thereto, including violating the provisions of subsection a. of section 3 of this act, by making a false claim on the product label or Internet website for a product, the division may:

(1) issue an order requiring the person found to be in violation to comply in accordance with subsection b. of this section;

(2) bring a civil action in accordance with subsection c. of this section;

(3) levy a civil administrative penalty in accordance with subsection d. of this section;

(4) bring an action for a civil penalty in accordance with subsection e. of this section;

(5) direct a manufacturer or other person that is not in compliance with the requirements of this act to stop offering for sale or distributing certain products that contain intentionally added microplastics, synthetic polymer microparticles, or secondary microplastic; or

(6) notify the public of a manufacturer that is not in compliance with the requirements of this act. The exercise of any of the

remedies provided in this section shall not preclude the seeking of any other remedy specified.

b. Whenever the division finds that a person has violated this act, or any rule or regulation adopted pursuant thereto, the division may issue an administrative enforcement order specifying the provision or provisions of this act, or the rule or regulation adopted pursuant thereto, of which the person is in violation, citing the action that constituted the violation, requiring compliance with the provision violated, and giving notice to the person of the person's right to a hearing on the matters contained in the administrative enforcement order. The ordered person shall have 20 calendar days from receipt of the order within which to deliver to the division a written request for a hearing. After the hearing and upon finding that a violation has occurred, the division may issue a final order. If no hearing is requested, the order shall become final after the expiration of the 20-day period. A request for hearing shall not automatically stay the effect of the order.

c. The division is authorized to institute a civil action in Superior Court for appropriate relief from any violation of the provisions of this act, or any rule or regulation adopted pursuant thereto. This relief may include an assessment against the violator for the costs of any investigation, inspection, or audit that led to the discovery and establishment of the violation, and for the reasonable costs of preparing and litigating the case under this subsection.

d. The division is authorized to impose a civil administrative penalty of not less than $1,000 nor more than $20,000 for each violation, provided that each day during which the violation continues shall constitute an additional, separate, and distinct offense. In assessing a civil administrative penalty, the division shall consider the severity of the violation, the measures taken to prevent further violations, and whether the penalty will maintain an appropriate deterrent. Prior to assessment of a civil administrative penalty, the person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall identify the section of the statute, rule, regulation, or order violated; recite the facts alleged to constitute a violation; state the basis for the amount of the civil administrative penalties to be assessed; and affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 days from receipt of the notice within which to deliver to the division a written request for a hearing. After the hearing and upon finding that a violation has occurred, the division may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 35-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative order is in addition to all other enforcement provisions in this act, and the payment of any assessment shall not

be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The division may compromise any civil administrative penalty assessed under this section in an amount and with conditions the division determines appropriate.

e. A person who violates any provision of this act, or any rule or regulation adopted pursuant thereto, or an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection d. of this section, or who knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the division shall be subject, upon order of a court, to a civil penalty not to exceed $25,000 per day of the violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), or may be collected in a civil action commenced by the division. In addition to any penalties, costs, or interest charges, the Superior Court, or the municipal court, as the case may be, may assess against the violator the amount of economic benefit accruing to the violator from the violation.

8. a. Any trade secrets included in any written notification, certification, or any other record submitted to the division pursuant to this act shall not be made available to the general public pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the open public records act.

b. In order to identify the trade secrets to be protected from public disclosure pursuant to subsection a. of this section, a manufacturer shall file a trade secret claim to the division, in a form and manner determined by the division. The disclosure to the division, pursuant to this section, of microplastics, synthetic polymer microparticles, or potential to generate secondary microplastics, shall not alone constitute a trade secret. No later than 90 days after receipt of a trade secret claim, the division shall make a determination on the validity of the trade secret claim. Upon making a determination on the validity of a trade secret claim, the division shall inform the manufacturer of the determination by certified mail. If the division determines that the manufacturer's trade secret claim is not valid, the manufacturer shall have 45 days from the receipt of the division's determination to file with the division a written request for an administrative hearing on the determination. If the manufacturer does not file such a request within 45 days, the division may take action to disclose the information for which the trade secret claim was made, pursuant to

the provisions of this act. If a manufacturer requests an administrative hearing pursuant to the provisions of this subsection, the division shall refer the matter to the Office of Administrative Law, for a hearing thereon. At the hearing the manufacturer shall have the burden to show that the trade secret claim is valid. Within 45 days of receipt of the administrative law judge's recommendation, the division shall affirm, reject, or modify the recommendation. The division's action shall be considered the final agency action for the purposes of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and shall be subject only to judicial review as provided in the Rules of Court. The division shall inform the manufacturer of its decision on the administrative law judge's recommendation by certified mail.

c. The subject of any trade secret claim pending or approved shall be treated as confidential information. The division shall not disclose any confidential information to any person except an officer or employee of the State in connection with the official duties of the officer or employee under any law for the protection of public health or the environment. Any officer or employee of the State who has access to any confidential information, and who willingly and knowingly discloses the confidential information to any person not authorized to receive it, shall be guilty of a crime of the third degree.

d. Any written notification containing information for which a trade secret claim is pending or has been approved may be made available to the public with that information concealed.

9. a. No later than one year after the effective date of this act, the department shall establish and implement a source reduction program to reduce the presence of microplastics in the State's air, water, and soil by encouraging the proper management of materials that contain microplastics and the use of safer alternatives. The program shall include, at a minimum:

(1) informational resources targeted at industrial and commercial users of microplastics;

(2) education of the general public concerning microplastics and their environmental and health impacts;

(3) to the extent funds are available, grants to operators of publicly owned treatment works for the purposes of developing, expanding, or implementing pretreatment standards for microplastics and education of users on sources of microplastics and their proper management;

(4) to the extent that funds are available, grants to municipalities for the purposes of educating solid waste disposal users on sources of microplastics and their proper management; and

(5) any other information and efforts that are determined by the department to be beneficial in reducing the presence and impact of microplastics in the State.

b. No later than two years after the effective date of this act, and annually thereafter until 10 years after the effective date of this act, the department shall submit a report to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the effectiveness of the program in reducing microplastic discharges to air, water, and soil within the State and educating industrial and commercial users of microplastics and residents of the State on microplastics and their proper management.

10. a. (1) The department shall, in consultation with the Department of Health, conduct microplastics-related research and develop a comprehensive microplastic monitoring and testing plan to regularly test water, soil, and other environmental media, as appropriate, for the presence of microplastics within the State, including air, ground and surface water, biota, sediment, and soil. The purpose of the department's research shall be to gain knowledge surrounding the subject of microplastics, provide insight into the proper management and mitigation of microplastics within the State, and to protect the environment from the adverse impacts of microplastics.

(2) The department's research shall include, at a minimum:

(a) the collection of soil, water samples, air samples, biosolids, fish, plant, and animal samples from throughout the State for monitoring and testing for microplastics;

(b) the comparison of microplastic samples gathered across the State in an effort to measure levels of microplastic contamination, and also to determine if there are any hotspots of microplastic contamination in the State;

(c) research concerning the impact of microplastics on the State's air, water, and soil quality;

(d) ways to mitigate the negative impacts of microplastics to human health;

(e) an investigation into the primary sources and pathways of environmental microplastic contamination;

(f) data collection of research findings and mitigation efforts concerning microplastics in other States and countries;

(g) a summary of peer-reviewed research on methods to reduce the introduction of microplastic into the environment;

(h) any other data collection and research that the department deems necessary to improve the current foundation of knowledge on the subject of microplastics; and

(i) recommended policy changes that will reduce the introduction of microplastics into the environment.

(3) The department's testing plan shall, at a minimum:

(a) describe analytical methods available that are consistent with the best available science;

(b) include testing for microplastics that originated from vehicle tires; and

(c) be made publicly available on the department's Internet website no later than two years following the effective date of this act, and updated every twenty-four months thereafter.

b. (1) No later than three years following the effective date of this act, the department shall, in consultation with the Department of Health, adopt and publish a Statewide microplastics strategy which shall include, but need not be limited to:

(a) the characterization of ambient concentrations of microplastics in environmental media and an assessment of the environmental and health impacts associated with microplastic contamination using the best available preexisting scientific research;

(b) an investigation of the sources and relative importance of pathways associated with the environmental impacts of microplastics determined to be significant pursuant to this section;

(c) a summary of existing scientific research on approaches for reducing the introduction of microplastics into environmental media from significant pathways of exposure, with an emphasis on the sizes, shapes, and types of microplastics that are associated with significant environmental impacts; and

(d) recommendations for policy changes, including statutory changes or additional research that may be needed to reduce or eliminate the presence of microplastics in environmental media.

(2) In developing and implementing the Statewide microplastics strategy, the department may utilize existing information and leverage ongoing efforts, where possible.

(3) The department shall update the microplastics strategy every twenty-four months following its initial publication.

11. a. There is appropriated from the General Fund to the Department of Environmental Protection the sum of $2.5 million to implement the provisions of sections 8 and 9 of this act. The department shall utilize $1.25 million for the purposes of carrying out the source reduction program pursuant to section 8 of this act and $1.25 million for the purposes of conducting microplastics-related research, monitoring, testing, and strategy development pursuant to section 9 of this act.

b. Each year following the date of enactment of this act, the department shall request annually, as a part of its budget proposal, such amount as may be necessary to conduct the air, water, and soil testing and microplastics-related research required pursuant section 8 of this act.

c. There is appropriated from the General Fund to the Department of Law and Public Safety the sum of $500,000 to implement the provisions of sections 1 through 7 of this act.

12. a. The Department of Environmental Protection may, pursuant to the "Administrative Procedure Act," P.L.1968, c.410

(C.52:14B-1 et seq.), adopt rules or regulations necessary to implement the provisions of sections 8 and 9 of this act.

b. The Division of Consumer Affairs in the Department of Law and Public Safety may, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules or regulations necessary to implement the provisions of sections 1 through 7 of this act.

13. This act shall take effect immediately.

STATEMENT

This bill would prohibit the sale of certain products containing intentionally added microplastic substances, require greater transparency in the labeling and disclosure of certain products containing microplastics, establish a source reduction program concerning the proper management of microplastics, and appropriate money for microplastic research. As defined in the bill, a microplastic is any material, five millimeters or less in diameter, composed of synthetic polymers and chemical additives, that have been added to a product over the course of the manufacturing or industrial process. Synthetic polymer microparticle would be defined to mean an artificial chain of monomer plastics, added to a product or intentionally used during the development of a product or one of its product components, to confer a specific characteristic, appearance, or quality or to perform a specific function. This would not include a technically unavoidable trace quantity of a synthetic polymer microparticle stemming from impurities of natural or synthetic ingredients or the manufacturing process, storage, or migration from packaging of the product or product component.

Specifically, the bill would prohibit, beginning three years after the bill's effective date, the sale, offer for sale, or distribution of cleaning products, cosmetic products, or potentially ingestible products (i.e. chewing gum, tea grounds, talcum powder, or pet food) that contain intentionally added microplastics, microplastics, products that could generate synthetic polymer microparticles, or other secondary microplastics.

In the second year following the effective date of the act, any manufacturer of cleaning, cosmetic, foodware, or potentially ingestible product sold in the State, which product contains intentionally added microplastics, or which could generate synthetic polymer microparticles or other secondary microplastics, would be required to list, in a product label, in the handle of the product or on any product surface that comes into contact with food, foodstuffs, or beverages, the presence of the intentionally added synthetic polymer microparticles, or potential for generation of other

secondary microplastics. A manufacturer of a product sold in the State would be required to ensure that the statement on the product label pursuant to subsection is visible and legible to the consumer, visible in both English and Spanish, and post the disclosure on the product listing for online sales. This provision would ensure adequate consumer awareness in the years between the gradual phase-out of products containing intentionally added microplastics, or products that could generate synthetic polymer microparticles or other secondary microplastics, and the ban on all products containing microplastics or their byproducts.

Products would be exempt from the labeling requirements of this section if the surface area of the product cannot fit a product label of at least two square inches; and the product does not have either an exterior container or wrapper on which a product label can appear or be affixed; or a tag or other attachment with information about the product attached to the product. The provisions of the bill would not apply to a product containing intentionally added microparticles only in electronic or internal component of the product. Any product with a product label listing the presence of microplastics, or potential to generate synthetic polymer microparticles or secondary microplastics, pursuant to another state or federal law, would be deemed in compliance with the bill.

The bill would also require the DEP to recommend to the Legislature products, in addition to those prohibited from being sold, offered for sale, or distributed pursuant to the bill, by category use, that should not be sold, offered for sale, or distributed for sale in this State, if those products contain intentionally added microplastics.

Under the bill, the Division of Consumer Affairs in the Department of Law and Public Safety (division) would have the authority to audit or investigate a manufacturer to assess the manufacturer's compliance with bill's provisions. The bill would provide that any trade secrets included in any written notification, certification, or any other record submitted to the division pursuant to the bill would be required to be kept confidential from the general public pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the open public records act. However, the disclosure that a product contains microplastics would not constitute as a trade secret.

The bill would require the DEP to establish, no later than one year after the bill's effective date, a source reduction program to reduce the presence of microplastics in the State's air, water, and soil by encouraging the proper management of materials that contain microplastics and the use of safer alternatives. The program would be required to include certain items enumerated in subsection a. of section 9 of the bill. The bill would also require the DEP to conduct microplastics-related research and comprehensive monitoring and testing of the presence and impact of microplastics

on the environmental media within the State, including air, water, biota, and soil. The DEP's research would be required to include certain items enumerated in subsection a. of section 10 of the bill. No later than two years after the bill's effective date, and annually thereafter, the DEP would be required to submit a comprehensive report to the Governor and the Legislature summarizing their research findings and activities and providing recommendations for programs, policies, and legislation to address the presence of microplastics in the State.

Finally, the bill would appropriate $2.5 million to the DEP for the purposes of implementing the source reduction program, conducting microplastics-related research, and monitoring and testing environmental media, such as air, water, and soil, for microplastics pursuant to the bill. The bill would additionally appropriate $500,000 to the Department of Law and Public Safety to enforce product disclosures and bans.