

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1321
OFFERED BY Mr . Upton

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Microbead-Free Wa-
3 ters Act of 2015”.

4 SEC. 2. PROHIBITION AGAINST SALE OR DISTRIBUTION OF
5 RINSE-OFF COSMETICS CONTAINING PLASTIC
6 MICROBEADS.

7 (a) IN GENERAL.—Section 301 of the Federal Food,
8 Drug, and Cosmetic Act (21 U.S.C. 331) is amended by
9 adding at the end the following:

10 “(ddd)(1) The manufacture or the introduction or de-
11 livery for introduction into interstate commerce of a rinse-
12 off cosmetic that contains intentionally-added plastic
13 microbeads.

14 “(2) In this paragraph—

15 “(A) the term ‘plastic microbead’ means any
16 solid plastic particle that is less than five millimeters
17 in size and is intended to be used to exfoliate or
18 cleanse the human body or any part thereof; and

1 “(B) the term ‘rinse-off cosmetic’—

2 “(i) includes toothpaste; but

3 “(ii) does not include a drug that is sub-
4 ject to the requirements of section 503(b)(1)
5 and that is not a cosmetic.”.

6 (b) APPLICABILITY.—

7 (1) IN GENERAL.—The amendment made by
8 subsection (a) applies—

9 (A) with respect to manufacturing, begin-
10 ning on July 1, 2017, and with respect to intro-
11 duction or delivery for introduction into inter-
12 state commerce, beginning on July 1, 2018; and

13 (B) notwithstanding subparagraph (A), in
14 the case of a rinse-off cosmetic that is a non-
15 prescription drug, with respect to manufac-
16 turing, beginning on July 1, 2018, and with re-
17 spect to the introduction or delivery for intro-
18 duction into interstate commerce, beginning on
19 July 1, 2019.

20 (2) NONPRESCRIPTION DRUG.—For purposes of
21 this subsection, the term “nonprescription drug”
22 means a drug not subject to section 503(b)(1) of the
23 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
24 353(b)(1)).

1 (c) PREEMPTION OF STATE LAWS.—No State or po-
2 litical subdivision of a State may directly or indirectly es-
3 tablish under any authority or continue in effect restric-
4 tions with respect to the manufacture or introduction or
5 delivery for introduction into interstate commerce of rinse-
6 off cosmetics containing plastic microbeads (as defined in
7 section 301(ddd) of the Federal Food, Drug, and Cosmetic
8 Act, as added by subsection (a)) that are not identical to
9 the restrictions under such section 301(ddd) that have
10 begun to apply under subsection (b).

Amend the title so as to read: “A bill to amend the
Federal Food, Drug, and Cosmetic Act to prohibit the
manufacture and introduction or delivery for introduction
into interstate commerce of rinse-off cosmetics containing
intentionally-added plastic microbeads.”.

