

JAN 25 2017

A BILL FOR AN ACT

RELATING TO POLYSTYRENE FOAM CONTAINERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that expanded polystyrene
2 foam represents one of the most common and toxic forms of litter
3 pollution in Hawaii. Expanded polystyrene foam is designed to
4 be lightweight, which allows it to easily escape waste
5 collection systems and accumulate on land and in water. The
6 accumulation of expanded polystyrene foam on land and in water
7 poisons the local food supply as the pollution leaches styrene,
8 a known carcinogen, and other toxins into the land and water.
9 This poisonous chain impacts all species including birds,
10 whales, turtles, seals, and the fish that form the foundation of
11 the local fishing industry. Expanded polystyrene foam poisons
12 and mars Hawaii's iconic landscapes, which serves as the basis
13 for its number one industry, tourism. The Environmental Caucus
14 of the Democratic Party and the National Oceanic and Atmospheric
15 Administration's marine debris action plan have included the
16 elimination of expanded polystyrene foam pollution as top
17 priorities for 2017.



1 The legislature further finds that the cost to the State
2 and counties to clean expanded polystyrene foam and other
3 plastics from storm drains, waterways, marine ecosystems, and
4 other aggregation points is well-documented and increasingly
5 burdensome. A study conducted by the National Resources Defense
6 Council found that California taxpayers shoulder \$428,000,000
7 per year in costs to prevent litter, including plastics like
8 expanded polystyrene foam, from becoming pollution which harms
9 the environment, tourism, and other economic activity. The cost
10 of litter prevention in San Diego, California, which is similar
11 in population to Hawaii, is over \$14,000,000 per year. In 2016,
12 the Hawaii department of transportation released a trash
13 reduction plan that estimated that prohibiting the distribution
14 of expanded polystyrene foam foodware could result in a ten per
15 cent reduction of the department of transportation highways
16 division's total cleanup costs of litter in the State. A wide
17 prohibition against the use of expanded polystyrene foam food
18 containers will likely result in even more cost savings.

19 The purpose of this Act is to protect the State's
20 environment and economy by prohibiting the use of polystyrene
21 food containers by food vendors.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 POLYSTYRENE FOAM CONTAINERS

6 § -1 Definitions. As used in this chapter:

7 "Department" means the department of health.

8 "Expanded polystyrene foam" means blown polystyrene and
9 expanded and extruded foams that are thermoplastic petrochemical
10 materials using a styrene monomer.

11 "Food vendor" means any person, public or private, located
12 within the State, who offers for sale or sells food or beverage
13 products.

14 "Polystyrene foam container" means a container that
15 intended for single use and is made of expanded polystyrene
16 foam.

17 "Prepared food" means food or beverages that are prepared
18 to be consumed on or off the premises of the establishment at
19 which it was prepared.

20 "Undue hardship" includes but is not limited to situations
21 in which:



1 (1) There are no acceptable alternatives to packaging with
2 polystyrene foam containers for reasons that are
3 unique to the applicant; or

4 (2) Compliance with the prohibition would deprive a person
5 of a legally protected right.

6 § -2 Rules. The department shall adopt rules pursuant
7 to chapter 91 to implement this chapter, including rules
8 relating to enforcement and exemptions.

9 § -3 Prohibition on the use of polystyrene foam
10 containers; county recycling programs. Beginning on January 1,
11 2018, no food vendor in the State may serve or package prepared
12 food in polystyrene foam containers unless:

13 (1) The county in which the food vendor serves or packages
14 prepared food has established a polystyrene foam
15 container recycling program and the department
16 verifies that the polystyrene foam container recycling
17 program is capable of recycling at least sixty per
18 cent of the polystyrene foam containers used annually
19 in the county; or

20 (2) The food vendor has been granted an exemption pursuant
21 to section -4.



1 § -4 **Exemption.** The department may grant a one-year
2 exemption from the requirements of this chapter upon application
3 and a showing by the applicant that compliance would cause undue
4 hardship and there are no acceptable alternatives to the use of
5 expanded polystyrene foam.

6 § -5 **Enforcement; penalties.** If the department
7 determines that a food vendor has violated this chapter, or any
8 rule adopted pursuant to this chapter, the department shall:

- 9 (1) For a food vendor's first violation, provide the food
10 vendor a written notice of violation;
- 11 (2) For a food vendor's second violation, fine the food
12 vendor \$200; and
- 13 (3) For a food vendor's third and each subsequent
14 violation, fine the food vendor \$500."

15 SECTION 3. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$ or so much
17 thereof as may be necessary for fiscal year 2017-2018 and the
18 same sum or so much thereof as may be necessary for fiscal year
19 2018-2019 for public education and to enforce this Act.

20 The sums appropriated shall be expended by the department
21 of health for the purposes of this Act.



S.B. NO. 1109

1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 5. This Act shall take effect on July 1, 2017.

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INTRODUCED BY:

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S.B. NO. 1109

Report Title:

Polystyrene Food Containers; Food Vendors; DOH

Description:

Prohibits the use of polystyrene foam containers by food vendors beginning 1/1/18, unless: (1) the county in which the food vendor works has established a polystyrene foam container recycling program; or (2) DOH allows an exemption.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

