

JAN 18 2019

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 products made using
2 polystyrene foam are one of the most common kinds of litter
3 pollution in Hawaii. Polystyrene foam is ultra-light, which
4 prevents collection systems from capturing it and allows it to
5 easily accumulate on land and in waterways. The fragments of
6 polystyrene foam that are left leach styrene, a known
7 carcinogen, and other toxins that then poison the environment
8 and local food chain. Most plastics do not biodegrade.
9 Instead, they slowly break down into smaller fragments known as
10 microplastics. Studies suggest that plastic bags and containers
11 made of expanded polystyrene foam, which is commonly referred to
12 as "styrofoam", can take up to thousands of years to decompose,
13 contaminating soil and water. The sight of polystyrene products
14 littering Hawaii's landscapes serves as a detriment to the
15 State's number one industry, tourism. Polystyrene foam also
16 contributes to the potential death of marine animals and avian
17 populations through ingestion.



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1 The legislature further finds that behavior modification
2 campaigns have been among the most effective in ushering in
3 these sustainable changes. The Surfrider Foundation's ocean
4 friendly restaurants program has registered over two hundred
5 businesses across the State that have gone single-use plastic
6 and foam-free without any economic hardship. Similar material
7 transition pieces of legislation have been enacted nationally
8 and internationally without any evidence of economic hardship.
9 As plastic pollution has exponentially accelerated globally,
10 there are large movements underway to reduce this impact and it
11 is in the best interest of Hawaii's business community to be a
12 leader in change and innovation.

13 The purpose of this Act is to protect the State's economy
14 and environment by phasing out the sale of polystyrene foam
15 containers and serving of prepared food using polystyrene foam
16 containers statewide.

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

20 "CHAPTER

21 POLYSTYRENE FOAM CONTAINERS



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

2 "Polystyrene" means a thermoplastic petrochemical material
3 utilizing a styrene monomer, including all polystyrene, meaning
4 any styrene or vinyl chloride polymer that is blown into a foam-
5 like material. Polystyrene includes materials created from
6 techniques including the fusion of polymer spheres (expandable
7 bead polystyrene), injection molding, foam molding, and
8 extrusion-blow molding (extruded foam polystyrene).

9 "Polystyrene foam container" means a container that is made
10 using polystyrene.

11 "Prepared food" means food or beverages that are prepared
12 to be consumed on or off the premises of a restaurant or food
13 establishment.

14 "Restaurant" means an eating establishment, including but
15 not limited to coffee shops, cafeterias, sandwich stands, food
16 trucks, and private and public school cafeterias, that gives or
17 offers for sale food or beverages to the public, guests, or
18 employees, as well as kitchens and catering facilities in which
19 food or beverage is prepared on the premises for serving
20 elsewhere. The term "restaurant" includes a bar area within the
21 restaurant and outdoor areas of restaurants.



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1 "Vendor" means any person, firm, or corporation engaged in
2 selling or offering for sale any prepared food containers.

3 § -2 Phasing out the sale and use of polystyrene foam
4 containers. (a) No vendor operating within the State shall
5 sell any polystyrene foam containers.

6 (b) No restaurant operating within the State shall serve
7 prepared food using polystyrene foam containers.

8 (c) At the point of sale for the purposes of serving
9 prepared food, the restaurant shall charge the customer a
10 minimum of 20 cents as a malama āina fee per take-out order.

11 § -3 Rules. The department of health may adopt rules
12 pursuant to chapter 91 necessary to implement this chapter,
13 including rules relating to enforcement and exemptions. The
14 rules may also include a requirement for food vendors to educate
15 their customers regarding proper disposal of nonreusable food
16 containers and litter reduction."

17 SECTION 3. This Act is intended to be a proper exercise of
18 the State's police power and role as a market participant, to
19 operate only upon its own officers, agents, employees, and
20 facilities, and other persons acting within the State's
21 boundaries, and not to regulate inter-city or interstate



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1 commerce. Nothing in this Act shall be interpreted or applied
 2 so as to create any requirement, power, or duty in conflict with
 3 any federal law.

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

7 SECTION 5. If any provision of this Act, or the
 8 application thereof to any person or circumstance, is held
 9 invalid, the invalidity does not affect other provisions or
 10 applications of the Act that can be given effect without the
 11 invalid provision or application, and to this end the provisions
 12 of this Act are severable.

13 SECTION 6. This Act shall take effect on January 1, 2020.
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INTRODUCED BY:

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S.B. NO. 520

Report Title:

Polystyrene Foam Products; Prohibition; Disposal of Nonreusable Prepared Food Containers; Litter Reduction

Description:

Prohibits the sale of polystyrene foam containers and serving of prepared foods using polystyrene foam containers statewide. Requires restaurants to charge customers 20 cents as a malama āina fee per take-out order. Authorizes the Department of Health to adopt rules to implement the prohibition and include within its administrative rules a requirement for prepared food vendors to educate their customers about proper disposal of nonreusable food containers and litter reduction. Effective 1/1/2020.

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