
A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL PROTECTION.

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

1 SECTION 1. The legislature finds that polystyrene foam
2 containers provided to customers by restaurants and other food
3 vendors are a hazard to the natural environment. Polystyrene
4 foam containers require fossil fuel to manufacture, contribute
5 to litter, and crowd landfills with non-biodegradable waste.
6 The legislature further finds that the State has an interest in
7 protecting its natural environment and decreasing the amount of
8 waste flowing into its landfills. The purpose of this Act is to
9 protect the state's natural environment by banning the
10 distribution of polystyrene foam containers within the State.

11 SECTION 2. Chapter 342H, Hawaii Revised Statutes, is
12 amended by adding a new part to be appropriately designated and
13 to read as follows:

14 **"PART . Polystyrene Foam Containers**

15 **§342H-A Definitions.** As used in this part, unless the
16 context otherwise requires:



1 "Affordable" means purchasable for not more than fifteen
2 per cent more than the purchase cost of a non-biodegradable,
3 non-compostable, or non-recyclable alternative.

4 "ASTM Standard" means meeting the standards of the American
5 Society for Testing and Materials International Standards D6400
6 or D6868 for biodegradable and compostable plastics.

7 "Compostable" means all the materials in the product or
8 package will break down into, or otherwise become part of,
9 usable compost (e.g., soil-conditioning material, mulch) in a
10 safe and timely manner. For the purposes of this part,
11 compostable means that the product or package meets ASTM
12 standards for compostablility.

13 "Department" means the department of health.

14 "Director" means the director of health.

15 "Disposable food service ware" means all containers, bowls,
16 plates, trays, carton, cups, lids, straws, forks, spoons,
17 knives, napkins and other items that are designed for one-time
18 use for prepared foods, including without limitation, service
19 ware for takeout foods or leftovers from partially consumed
20 meals prepared by food vendors. The term "disposable food
21 service ware" does not include items composed entirely of



1 aluminum or polystyrene foam coolers and ice chests that are
2 intended for reuse.

3 "Food vendor" means any restaurant or retail food vendor
4 located or operating within the State.

5 "Person" means an individual, trust, firm, joint stock
6 company, corporation including a government corporation,
7 partnership, limited liability company, or association.

8 "Polystyrene foam" means blown polystyrene and expanded and
9 extruded foams (sometimes called Styrofoam™) that are
10 thermoplastic petrochemical materials utilizing a styrene
11 monomer and processed by any number of techniques including, but
12 not limited to, fusion of polymer spheres (expandable bead
13 polystyrene), injection molding, foam molding, and extrusion-
14 blown molding (extruded foam polystyrene). Polystyrene foam is
15 generally used to make cups, bowls, plates, trays, clamshell
16 containers, meat trays, and egg cartons.

17 "Prepared food" means food or beverages that are serviced,
18 packaged, cooked, chopped, sliced, mixed, brewed, frozen,
19 squeezed or otherwise prepared within the State for individual
20 customers or consumers. For the purpose of this part the term
21 includes takeout food, but does not include raw, butchered



1 meats, fish, or poultry sold from a butcher case or similar
2 retail appliance.

3 "Recyclable" means material that can be sorted, cleansed,
4 and reconstituted using available recycling collection programs
5 for the purpose of using the altered form in the manufacture of
6 a new product. Recycling does not include burning,
7 incinerating, converting, or otherwise thermally destroying
8 solid waste.

9 "Restaurant" means any establishment located within the
10 State that sells prepared food for consumption on, near, or off
11 its premises. For purposes of this part, the term includes a
12 restaurant operating from a temporary facility, cart, vehicle,
13 or mobile unit.

14 "Retail food vendor" means any store, shop, sales outlet,
15 or other establishment, including a grocery store or a
16 delicatessen, other than a restaurant, located within the State
17 that sells prepared food.

18 "State contractors and lessees" means any person or entity
19 that has a contract with the State for public works or
20 improvements to be performed, for a franchise, concession, or
21 lease of property, for grant moneys or goods and services or
22 supplies to be purchased at the expense of the State or to be



1 paid out of moneys deposited in the general fund or out of trust
2 moneys under the control or collected by the State.

3 "State facility" means any building, structure, or vehicle
4 owned or operated by the State.

5 "State facility food provider" means an entity that
6 provides, but does not sell, prepared food in state facilities.

7 **§342H-B Prohibited disposable food service ware.** (a) No
8 food vendors may sell or otherwise distribute prepared food in
9 disposable food service ware that contains polystyrene foam.

10 (b) No state facility food provider may provide prepared
11 food in disposable food service ware that contains polystyrene
12 foam.

13 (c) No state department or agency may purchase, acquire,
14 or use disposable food service ware that contains polystyrene
15 foam.

16 (d) No state contractor or lessee may use disposable food
17 service ware that contains polystyrene foam in state facilities
18 and while performing under a state contract or lease.

19 **§342H-C Required compostable or recyclable disposable food**
20 **service ware.** (a) All food vendors using any disposable food
21 service ware shall use a suitable affordable alternative
22 compostable or recyclable product, unless there is no suitable



1 affordable compostable or recyclable product available as
2 determined by the director in accordance with this part.

3 (b) All state facility food providers and state facilities
4 using any disposable food service ware shall use compostable or
5 recyclable disposable food service ware, unless there is no
6 affordable compostable product available as determined by the
7 director in accordance with this part.

8 (c) State contractors and lessees using any disposable
9 food service ware shall use suitable compostable or recyclable
10 disposable food service ware in state facilities and while
11 performing under a state contract or lease, unless there is no
12 suitable affordable compostable or recyclable product available
13 as determined by the director in accordance with this part.

14 **§342H-D Implementation.** The director shall adopt rules
15 under chapter 91 necessary for the purpose of this part. The
16 director, by rule, may provide for administrative penalties for
17 violations of this part or any rules adopted thereunder.

18 **§342H-E Waiver.** (a) Any person may seek a waiver from
19 the requirements of this part by filing a request on a form
20 specified by the director.

21 (b) The director, consistent with this part, may waive any
22 specific requirement of this part for a period of up to one year



1 if the person seeking the waiver has demonstrated that strict
 2 application of the specific requirement would create an undue
 3 hardship or practical difficulty not generally applicable to
 4 other persons in similar circumstances. The director's decision
 5 to grant or deny a waiver shall be in writing and shall be
 6 final."

7 SECTION 3. This Act does not affect rights and duties that
 8 matured, penalties that were incurred, and proceedings that were
 9 begun, before its effective date.

10 SECTION 4. This Act shall take effect on January 1, 2010.

11

INTRODUCED BY:

Kirk Caldwell
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[Signature]

JAN 15 2008



Report Title:

Environmental Protection

Description:

Bans the use of polystyrene foam containers by food vendors in the State.

