
A BILL FOR AN ACT

RELATING TO SOLID WASTE.

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

1 SECTION 1. The legislature finds that the State of Hawaii
2 has taken significant strides over the past several years to
3 protect and preserve Hawaii's precious resources and its
4 environment. Recent examples, such as the HI-5 container
5 recycling program and the work of the Hawaii 2050 task force,
6 have furthered efforts towards Hawaii becoming the premier
7 renewable and environmentally conscious state in the United
8 States.

9 Polystyrene foam (commonly referred to as "styrofoam") is
10 generally used to make cups, bowls, plates, trays, clamshell
11 containers, meat trays, and egg cartons. The legislature finds
12 that the use and disposal of these polystyrene foam food
13 service-ware products pose a significant threat not only to
14 Hawaii's ecosystems and environment but also to the general
15 health and welfare of the citizens of this state.

16 While the legislature recognizes the use of polystyrene
17 foam as a sturdy, sanitary, economical, and convenient product



1 for Hawaii's food service industries, the inherent
2 non-biodegradable nature and chemical composition of this
3 product raises serious concerns.

4 Polystyrene foam is a nonrenewable petroleum by-product
5 resource, composed of the chemicals styrene and benzene.
6 Benzene is classified as a human carcinogen. Styrene is a
7 neurotoxin and also is suspected to cause cancer. The
8 Environmental Protection Agency is currently conducting an
9 integrated risk information system review to establish whether
10 to formally classify styrene as a carcinogen. Furthermore, the
11 legislature has concerns regarding the possible leaching of
12 styrene into food and liquids when heated in polystyrene foam
13 food service-ware products. Eating foods heated in these
14 containers may pose a potential threat to human health.

15 Due to their inherent nonbiodegradable, nonrecyclable
16 nature, polystyrene foam products take hundreds of years to
17 decompose. Therefore, these products pose a significant
18 long-term detrimental impact upon Hawaii's environment and
19 ecosystems.

20 Used polystyrene foam products are either buried in
21 landfills across the state or are disposed of through the
22 Honolulu program of waste energy recovery, the ash from which is



1 then buried at the landfills. These products take up a
2 substantial percentage of available landfill space in the state
3 and the legislature concludes that this disposal option is
4 unacceptable, given the present lack of landfill space available
5 in the state.

6 In addition, there are concerns that, as polystyrene foam
7 breaks down in the state's landfills, dangerous chemicals are
8 leaching into the seepage of the landfills, adversely impacting
9 the state's environment and ecosystems. Additionally, this
10 seepage is pumped out of the landfill and inadequately processed
11 and treated before being discharged into the ocean, threatening
12 marine ecosystems around the islands.

13 The legislature is also concerned that when polystyrene
14 foam is incinerated at the Honolulu program of waste energy
15 recovery facility, it produces a dense, black, irritating smoke
16 containing acidic gases, emitting carbon monoxide, carbon
17 dioxide, and the known neurotoxin and possible carcinogen,
18 styrene. The National Bureau of Standards Center for Fire
19 Research has identified 57 chemical by-products released during
20 the combustion of polystyrene foam.

21 The legislature further finds that litter containing
22 polystyrene foam food service-ware products is not only an



1 aesthetic concern but also raises significant health and welfare
2 concerns for the state's aquatic and wild life. When
3 polystyrene foam is not properly disposed of, it repeatedly
4 breaks down over time into smaller pieces. Various creatures
5 including birds, marine mammals, and fish mistake these smaller,
6 broken down pieces of foam for food, causing them to either
7 choke or have their digestive systems clogged. This poses a
8 significant threat to Hawaii's fragile ecosystems.

9 The legislature concludes that polystyrene foam food
10 service-ware products pose a significant and substantial threat
11 upon Hawaii's environment and a threat to the health and general
12 welfare of its citizens.

13 The purpose of this Act is to prohibit the use of
14 disposable food service-ware that contains polystyrene foam by
15 commercial, non-profit, and government entities.

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

19 **"CHAPTER**

20 **DISPOSABLE FOOD SERVICE-WARE**

21 **§ -1 Definitions.** As used in this chapter, unless the
22 context otherwise requires:



1 "Department" means the department of health.

2 "Disposable food service-ware" means all containers, bowls,
3 plates, trays, cartons, cups, and other items that are designed
4 for one-time use to contain prepared foods, including without
5 limitation, food service-ware for takeout foods and leftovers
6 from partially consumed meals.

7 "Polystyrene foam" means blown polystyrene and expanded and
8 extruded foams (commonly referred to as "Styrofoam") that are
9 thermoplastic petrochemical materials using a styrene monomer
10 and processed by any number of techniques, including the fusion
11 of polymer spheres (expandable bead polystyrene), injection
12 molding, foam molding, and extrusion-blown molding (extruded
13 foam polystyrene).

14 "Prepared food" means food or beverages that are served,
15 packaged, cooked, chopped, sliced, mixed, brewed, frozen,
16 squeezed, or otherwise prepared on the food vendor's premises or
17 within the state.

18 **§ -2 Prohibition on polystyrene foam disposable food**
19 **service-ware.** Beginning January 1, 2010:

20 (1) Restaurants, retail food vendors, nonprofit, and
21 government food providers, and packagers who serve,
22 vend, provide, or package prepared food in the state



1 are prohibited from providing or selling prepared food
2 in disposable food service-ware that contains
3 polystyrene foam;

4 (2) State and county agencies are prohibited from
5 purchasing, acquiring, or using disposable food
6 service-ware that contains polystyrene foam; and

7 (3) Public contractors and lessees are prohibited from
8 using disposable food service-ware that contains
9 polystyrene foam in state or county facilities while
10 performing under a government contract or lease.

11 **§ -3 Rules.** The department shall adopt rules, pursuant
12 to chapter 91, as may be necessary to carry out the purposes of
13 this chapter.

14 **§ -4 Penalties.** Any person violating this chapter shall
15 be subject to:

16 (1) For a first violation, or any violation not preceded
17 within a one-year period by a violation of this
18 chapter, a fine of not more than \$250 per violation;
19 and

20 (2) For a second or subsequent violation within one year
21 of the last violation of this chapter, a fine of not
22 more than \$500 per violation."



1 SECTION 3. The department of health, in coordination with
2 the department of business, economic development, and tourism,
3 shall establish a program to educate the general public and the
4 food service industry about the threats posed by polystyrene
5 foam and encourage early compliance with this Act.

6 As part of this program, the department of business,
7 economic development, and tourism shall create, regularly
8 update, distribute, and make available a list of alternative
9 forms of biodegradable or compostable food service-ware products
10 that do not contain polystyrene foam.

11 SECTION 4. The department department of business, economic
12 development, and tourism, shall evaluate the feasibility and
13 potential for production of biodegradable disposable food
14 service-ware products within the state and report its findings
15 and recommendations to the legislature no later than twenty days
16 prior to the convening of the 2010 regular session.

17 SECTION 5. The department of health, in consultation with
18 the counties and relevant state agencies, and with input from
19 members of the public, shall submit a report recommending any
20 needed changes to this Act, including whether the ban imposed by
21 this Act should be extended to other products, to the



1 legislature no later than twenty days prior to the convening of
2 the 2011 regular session.

3 SECTION 6. As used in this Act, unless the context
4 otherwise requires:

5 "Biodegradable" means the entire product or package will
6 completely decompose into elements found in nature within a
7 reasonably short period of time after customary disposal.

8 "Compostable" means all materials in the product or package
9 will break down into, or otherwise become part of, usable
10 compost (e.g., soil-conditioning material or mulch) in a safe
11 and timely manner in an appropriate composting program or
12 facility, or in a home compost pile or device.

13 SECTION 7. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun, before its effective date.

16 SECTION 8. There is appropriated out of the environmental
17 response revolving fund the sum of \$ or so much thereof as
18 may be necessary for fiscal year 2008-2009 for the
19 implementation of this Act.

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



1 SECTION 9. This Act shall take effect upon its approval;
2 provided that section 8 shall take effect on July 1, 2008.



Report Title:

Polystyrene Foam; Food Service-ware; Prohibit Use

Description:

Prohibits the use of polystyrene foam as a disposable food service-ware product beginning January 1, 2010. (HB2495 HD1)

