

JAN 16 2008

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 2050 sustainability task
6 force 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 poses 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 non-renewable 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 non-biodegradable, non-recyclable
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 of Hawaii and the legislature concludes that this disposal
4 option is unacceptable, given the present lack of landfill space
5 available 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. This seepage is
9 pumped out of the landfill and inadequately processed and
10 treated before being discharged into the ocean, threatening
11 marine ecosystems around the islands.

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

20 In addition, residual ash, a necessary by-product of the
21 incineration process, is ultimately placed in the State's
22 landfills. This ash contains many of the dangerous chemicals



1 that leach into the seepage of the landfills and also has an
2 adverse impact upon Hawaii's ecosystems and environment.

3 The legislature further finds that the failure to properly
4 dispose of polystyrene foam food service-ware products
5 ("littering"), is not only an aesthetic concern but also raises
6 significant health and welfare concerns. When polystyrene foam
7 is not properly disposed of, it repeatedly breaks down over time
8 into smaller pieces. Various creatures including birds, marine
9 mammals, and fish mistake these smaller, broken down pieces of
10 foam for food, causing them to either choke or have their
11 digestive systems clogged. This poses a significant threat to
12 Hawaii's fragile ecosystems.

13 The legislature concludes that polystyrene foam food
14 service-ware products pose a significant and substantial threat
15 upon Hawaii's environment and a threat to the health and general
16 welfare of its citizens.

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

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



1 "CHAPTER

2 DISPOSABLE FOOD SERVICE-WARE

3 § -1 Definitions. As used in this chapter, unless the
4 context 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 "Disposable food service-ware" means all containers, bowls,
14 plates, trays, cartons, cups, and other items that are designed
15 for one-time use for prepared foods, including without
16 limitation, food service-ware for takeout foods and leftovers
17 from partially consumed meals.

18 "Polystyrene foam" means blown polystyrene and expanded and
19 extruded foams (commonly referred to as "styrofoam") that are
20 thermoplastic petrochemical materials utilizing a styrene
21 monomer and processed by any number of techniques including, but
22 not limited to, the fusion of polymer spheres (expandable bead



1 polystyrene), injection molding, foam molding, and extrusion-
2 blown molding (extruded foam polystyrene).

3 "Prepared food" means food or beverages that are served,
4 packaged, cooked, chopped, sliced, mixed, brewed, frozen,
5 squeezed, or otherwise prepared on the food vendor's premises or
6 within the State of Hawaii. Prepared food may be eaten either
7 on or off the premises and also is known as "takeout food".

8 § -2 Prohibition on polystyrene foam disposable food
9 service-ware. (a) Restaurants, retail food vendors,
10 non-profit, and government food providers, and packagers who
11 serve, vend, provide, or package prepared food in the State are
12 prohibited from providing or selling prepared food in disposable
13 food service-ware that contains polystyrene foam.

14 (b) State and county agencies are prohibited from
15 purchasing, acquiring, or using disposable food service-ware
16 that contains polystyrene foam.

17 (c) Public contractors and lessees are prohibited from
18 using disposable food service-ware that contains polystyrene
19 foam in state facilities while performing under a government
20 contract or lease.

21 (d) This section shall take effect on January 1, 2010.



1 § -3 **Enforcement; powers of counties.** All counties in
2 the State of Hawaii shall adopt rules and guidelines and enact
3 ordinances to take any and all reasonable actions necessary to
4 implement and enforce this chapter.

5 § -4 **Penalties.** Any person violating this chapter shall
6 be fined as follows:

7 (1) For a first violation, or any violation not preceded
8 within a one-year period by a violation of this
9 chapter, a fine of not more than \$250 per violation;
10 and

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

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

19 As part of this program, the department of business,
20 economic development, and tourism, shall create, regularly
21 update, distribute, and make available a list of alternative



1 forms of biodegradable or compostable food service-ware products
2 that do not contain polystyrene foam.

3 SECTION 4. The department of agriculture, in coordination
4 with the department of business, economic development, and
5 tourism, shall evaluate the feasibility and potential for
6 production of biodegradable disposable food service-ware
7 products within the State and report its findings and
8 recommendations to the legislature no later than twenty days
9 prior to the convening of the 2010 regular session.

10 SECTION 5. The department of health, in consultation with
11 the counties and relevant state agencies, and with input from
12 members of the public, shall submit a report recommending any
13 needed changes to this Act, including whether the ban imposed by
14 this Act should be extended to other products, to the
15 legislature no later than twenty days prior to the convening of
16 the 2011 regular session.

17 SECTION 6. There is appropriated out of the environmental
18 response revolving fund pursuant to section 128D-2(b)(2), Hawaii
19 Revised Statutes, the sum of \$750,000 or so much thereof as may
20 be necessary for fiscal year 2008-2009 for the implementation of
21 this Act.



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

3 SECTION 7. This Act shall take effect upon its approval;
4 provided that section 6 shall take effect on July 1, 2008.

5

INTRODUCED BY:

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Report Title:

Polystyrene Foam; Food Service-ware; Prohibit Use

Description:

Prohibits the use of polystyrene foam as a disposable food service-ware product.

