
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that most takeout food
2 containers, particularly plate lunch containers and beverage
3 cups, are made from polystyrene foam, commonly known as
4 styrofoam, a trademark name. Polystyrene is not biodegradable
5 and does not decompose, resulting in the dumping of polystyrene
6 into landfills that are already filled to capacity.
7 Furthermore, the polystyrene does not disintegrate like other
8 trash. Polystyrene containers also litter the landscape and
9 streets, creating unsightly visual pollution and a major public
10 inconvenience and cost. If animals eat the polystyrene, it may
11 cause the animal to become ill and die. Polystyrene lacks any
12 recyclable value since it is not recyclable and has little or no
13 scrap value.

14 The legislature finds that it is in the interest of
15 protecting the public health and safety to prohibit the use of
16 polystyrene food containers by restaurants and take-out food
17 operations.



1 The purpose of this Act is to prohibit the use of
2 polystyrene food containers by restaurants and takeout food
3 operations.

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

7 **"CHAPTER**

8 **POLYSTYRENE FOAM CONTAINERS**

9 **§ -1 Definitions.** As used in this chapter:

10 "Biodegradable" means capable of being broken down by
11 micro-organisms commonly found in the environment into non-
12 harmful substances or elements within a reasonably short time
13 after disposal.

14 "Degradable" means material that:

- 15 (1) Substantially reduces to its constituent substances
16 through processes initiated by natural organisms whose
17 end products are substantially, but not necessarily
18 entirely, carbon dioxide and water; and
19 (2) Is designed to degrade when exposed to ultraviolet
20 light.



1 The term "degradable" does not include synthetic or plastic-
2 coated cellulose-based items comprising more than five per cent
3 of the total volume of an item.

4 "Disposable food service container" means disposable
5 products used in a restaurant or take-out food operation as
6 packaging to serve or transport prepared, ready-to-consume food
7 or beverages, including but not limited to, plates, cups, bowls,
8 trays, and hinged or lidded containers. The term "disposable
9 food service container" does not include straws, cup lids,
10 utensils, and packaging for unprepared food.

11 "Expanded polystyrene" means blown polystyrene and expanded
12 and extruded foams, commonly referred to as Styrofoam (a
13 trademark Dow Chemical Company form of polystyrene foam
14 insulation), that are thermoplastic petrochemical materials
15 utilizing a styrene monomer, and processed by any number of
16 techniques, including but not limited to, fusion of polymer
17 spheres (expandable bead polystyrene), injection molding, foam
18 molding, and extrusion-blow molding (extruded foam polystyrene).
19 Expanded polystyrene is generally used to make cups, bowls,
20 plates, trays, clamshell containers, meat trays, and egg
21 cartons.



1 "Nonprofit food provider" means a charitable nonprofit
2 entity operating pursuant to section 501(c)(3) of the Internal
3 Revenue Code, and whose primary purpose is to provide health and
4 human services, including furnishing food, to the poor or needy.

5 "Packaging" means all food-related wrappings, bags, boxes,
6 coverings, and containers, including but not limited to, cups
7 and similar containers for drinking out of or for holding
8 liquids, and plates and serving trays. The term "packaging"
9 does not include plastic knives, forks, spoons, lids, straws,
10 and materials used to package unprepared food.

11 "Polystyrene" means expanded polystyrene that is a
12 thermoplastic petrochemical material utilizing a styrene monomer
13 and processed by any number of techniques, including but not
14 limited to, fusion of polymer spheres (expandable bead
15 polystyrene), injection molding, foam molding, and extrusion-
16 blow molding (extruded foam polystyrene).

17 "Polystyrene foam" means a thermoplastic petrochemical
18 material utilizing a styrene monomer and processed by
19 techniques, including but not limited to, fusion of polymer
20 spheres (expandable bead polystyrene), injection molding, foam
21 molding, and extrusion-blow molding (extruded foam polystyrene).



1 "Prepared food" means food or beverages that are served,
2 packaged, cooked, chopped, sliced, mixed, brewed, frozen,
3 squeezed, or otherwise prepared for consumption by a retail
4 consumer or customer on the premises of a restaurant or taken
5 out by a customer from the restaurant. The term "prepared food"
6 does not include raw or butchered meats, fish, or poultry, but
7 does include raw fish or seafood intended to be consumed as raw.

8 "Restaurant" means an eating establishment, including but
9 not limited to, coffees shops, cafeterias, sandwich stands,
10 which gives or offers food for sale to the public, guests, or
11 employees, as well as kitchens and catering facilities in which
12 food is prepared on the premises for serving elsewhere. For
13 purposes of this chapter, the term "restaurant" shall include a
14 take-out food service for prepared food of the restaurant, or a
15 stand-alone lunch wagon or lunch counter operation that sells
16 prepared food to customers to be consumed off the premises of
17 the lunch wagon or lunch counter whether or not the lunch wagon
18 or lunch counter is affiliated with a restaurant.

19 "Unprepared food" means any food that is not prepared.

20 **§ -2 Polystyrene foam containers; prohibited use.** (a)
21 Beginning January 1, 2010, only degradable or biodegradable
22 disposable food service containers shall be used by restaurants



1 as packaging for prepared food. Beginning January 1, 2010, no
2 restaurant shall use polystyrene, polystyrene foam, or expanded
3 polystyrene or styrofoam as packaging for prepared food.

4 (b) This section shall not be interpreted to prohibit the
5 use of prepared food packaging composed of recyclable,
6 degradable, or biodegradable material.

7 (c) This section shall not apply to the use of
8 polystyrene, polystyrene foam, or expanded polystyrene or
9 styrofoam by a nonprofit food provider serving the needy.

10 **§ -3 Administration.** The department of health shall
11 administer this chapter. The director of health shall adopt
12 rules pursuant to chapter 91 necessary for the purposes of this
13 chapter.

14 **§ -4 Penalties.** A restaurant that violates section
15 -2, shall receive a warning from the department of health for
16 an initial violation. There shall be no penalty for a warning.
17 If not less than thirty days elapsed from the warning and the
18 restaurant is cited by the department of health for violation of
19 section -2 or any rule adopted pursuant to section -3, the
20 restaurant shall be fined \$100 for each of the first, second,
21 and third violation; \$300 for each of the fourth and fifth
22 violation; and \$500 for the fifth violation and each subsequent



1 violation. Each day of each violation shall be considered a
2 separate offense. Any action taken in court to impose or
3 collect the penalty provided for in this section shall be
4 considered a civil action."

5 SECTION 3. The department of health shall establish and
6 maintain a list of suitable and appropriate packaging for
7 prepared food, including but not limited to degradable or
8 biodegradable disposable food service containers, as
9 alternatives to the use of polystyrene, polystyrene foam, and
10 expanded polystyrene or styrofoam. The department of health
11 shall post its findings on a publicly accessible website no
12 later than January 1, 2009. The content material of the website
13 shall be updated with any new developments.

14 SECTION 4. The department of agriculture, in coordination
15 with the department of business, economic development, and
16 tourism, shall evaluate the feasibility and potential for
17 production of biodegradable disposable food service-ware
18 products within the State and report its findings and
19 recommendations to the legislature no later than twenty days
20 prior to the convening of the 2010 regular session.

21 SECTION 5. The department of health, in consultation with
22 the counties and relevant state agencies, and with input from



1 members of the public, shall submit a report recommending any
2 needed changes to this Act, including but not limited to whether
3 the ban imposed by this Act should be modified or extended to
4 other products, to the legislature no later than twenty days
5 prior to the convening of the 2011 regular session.

6 SECTION 6. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ _____ or so
8 much thereof as may be necessary for fiscal year 2008-2009 for
9 the department of health to administer and enforce section 2 of
10 this Act and to implement section 3 of this Act.

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

13 SECTION 7. This Act shall take effect on _____.



Report Title:

Polystyrene; Prohibition; Appropriation

Description:

Prohibits use of polystyrene foam takeout food containers beginning January 1, 2010. Requires department of health to find alternatives to polystyrene containers. Makes appropriation. (SD1)

