

JAN 28 2009

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 environment. Polystyrene foam
4 containers require fossil fuel to manufacture, contribute to
5 litter, and crowd landfills with non-biodegradable waste. The
6 legislature further finds that the State has an interest in
7 protecting the environment and decreasing the amount of waste in
8 landfills. The purpose of this Act is to protect the
9 environment by banning the distribution of polystyrene foam
10 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 costing not more than fifteen per cent
2 more than the purchase price of a non-biodegradable, non-
3 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 a 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 and the product or package meets ASTM
11 standards for compostability.

12 "Department" means the department of health.

13 "Director" means the director of health.

14 "Disposable food service ware" means containers, bowls,
15 plates, trays, carton, cups, lids, straws, forks, spoons,
16 knives, napkins and other items that are designed for one-time
17 use to consume prepared foods, including service ware for
18 takeout foods or leftovers from partially consumed meals
19 prepared by food vendors. The term "disposable food service
20 ware" does not include aluminum or polystyrene foam coolers and
21 ice chests that are intended for reuse.



1 "Food vendor" means any restaurant or retail food vendor
2 located or operating within the State.

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

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

15 "Prepared food" means food or beverages that are serviced,
16 packaged, cooked, chopped, sliced, mixed, brewed, frozen,
17 squeezed or otherwise prepared within the State for individual
18 customers or consumers. For the purpose of this part, the term
19 includes takeout food but does not include raw, butchered meats,
20 fish, or poultry sold from a butcher case or similar retail
21 appliance.



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

7 "Restaurant" means any establishment located within the
8 State that sells prepared food for consumption on, near, or off
9 its premises. The term includes a restaurant operating from a
10 temporary facility, cart, vehicle, or mobile unit.

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

15 "State contractors or lessees" means any person or entity
16 that contracts with the State for:

- 17 (1) Public works;
- 18 (2) A franchise, concession, or lease of property;
- 19 (3) Grant moneys;
- 20 (4) Goods or services; or
- 21 (5) Supplies,



1 to be paid with state funds or trust moneys under the control or
2 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 vendor 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 **§342H-C Required compostable or recyclable disposable food**
19 **service ware.** (a) All food vendors using disposable food
20 service ware shall use a suitable affordable alternative
21 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 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 or lessees using disposable food
9 service ware shall use suitable compostable or recyclable
10 disposable food service ware in state facilities, unless there
11 is no suitable affordable compostable or recyclable product
12 available as determined by the director in accordance with this
13 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 provided that no fine established under this section may exceed
19 \$.

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



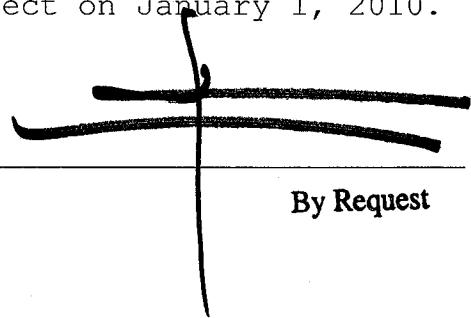
1 (b) The director, consistent with this part, may waive any
2 specific requirement of this part for a period of up to one year
3 if the person seeking the waiver has demonstrated that the
4 strict application any provision of this part would create an
5 undue hardship or practical difficulty not generally applicable
6 to other persons in similar circumstances. The director's
7 decision to grant or deny a waiver shall be in writing and shall
8 be final."

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

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

13

INTRODUCED BY: _____



By Request



Report Title:

Environmental Protection; Polystyrene Foam Containers;
Prohibited

Description:

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

