

# HOUSE BILL 538

M3, F1, F2  
HB 229/17 – ENV & ECM

8lr1477  
CF 8lr1762

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By: **Delegates Lierman, Barkley, B. Barnes, Brooks, Carr, Cullison, Ebersole, Fennell, Fraser-Hidalgo, Frush, Gaines, Gutierrez, Hayes, Hettleman, Hixson, Kelly, Korman, Lafferty, J. Lewis, R. Lewis, Luedtke, McIntosh, Moon, Morhaim, Mosby, Platt, Proctor, Queen, Robinson, Rosenberg, Sanchez, Stein, Tarlau, Waldstreicher, M. Washington, and Wilkins**

Introduced and read first time: January 26, 2018

Assigned to: Environment and Transportation and Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Expanded Polystyrene Food Service Products – Prohibition**

3 FOR the purpose of establishing that this Act does not affect the authority of a county,  
4 municipality, or other local government to enact standards that are at least as  
5 stringent as the standards established in this Act; prohibiting a person from selling  
6 in the State a certain expanded polystyrene food service product on or after a certain  
7 date; prohibiting a certain food service business or certain school from selling or  
8 providing food in a certain expanded polystyrene food service product on or after a  
9 certain date; requiring the Department of the Environment to conduct a certain  
10 public education and outreach campaign in a certain manner; authorizing the  
11 Department to provide a certain waiver to a certain food service business or certain  
12 school under certain circumstances; requiring a county health department to enforce  
13 certain provisions of this Act; authorizing a county health department to impose a  
14 certain penalty for certain violations; prohibiting the imposition of a certain penalty  
15 unless certain conditions are met; requiring a county health department to notify the  
16 Department of certain violations; authorizing the Department to adopt certain  
17 regulations; defining certain terms; and generally relating to expanded polystyrene  
18 food service products.

19 BY adding to

20 Article – Environment

21 Section 9–2201 through 9–2207 to be under the new subtitle “Subtitle 22. Expanded  
22 Polystyrene”

23 Annotated Code of Maryland

24 (2014 Replacement Volume and 2017 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 That the Laws of Maryland read as follows:

2 **Article – Environment**

3 **SUBTITLE 22. EXPANDED POLYSTYRENE.**

4 **9–2201.**

5 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
6 **INDICATED.**

7 **(B) “EXPANDED POLYSTYRENE” MEANS BLOWN POLYSTYRENE AND**  
8 **EXPANDED AND EXTRUDED FOAMS THAT ARE THERMOPLASTIC PETROCHEMICAL**  
9 **MATERIALS UTILIZING A STYRENE MONOMER AND PROCESSED BY A NUMBER OF**  
10 **TECHNIQUES, INCLUDING FUSION OF POLYMER SPHERES (EXPANDABLE BEAD**  
11 **POLYSTYRENE), INJECTION MOLDING, FOAM MOLDING, AND EXTRUSION–BLOW**  
12 **MOLDING (EXTRUDED FOAM POLYSTYRENE).**

13 **(C) (1) “EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT” MEANS A**  
14 **PRODUCT MADE OF EXPANDED POLYSTYRENE THAT IS USED FOR SELLING OR**  
15 **PROVIDING FOOD.**

16 **(2) “EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT” INCLUDES:**

17 **(I) FOOD CONTAINERS;**

18 **(II) PLATES;**

19 **(III) HOT AND COLD BEVERAGE CUPS;**

20 **(IV) MEAT AND VEGETABLE TRAYS; AND**

21 **(V) EGG CARTONS.**

22 **(3) “EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT” DOES NOT**  
23 **INCLUDE:**

24 **(I) PREPACKAGED SOUP OR OTHER FOOD THAT A FOOD**  
25 **SERVICE BUSINESS SELLS OR OTHERWISE PROVIDES TO ITS CUSTOMERS IN**  
26 **EXPANDED POLYSTYRENE CONTAINERS THAT HAVE BEEN FILLED AND SEALED**  
27 **BEFORE RECEIPT BY THE FOOD SERVICE BUSINESS;**

28 **(II) FOOD OR BEVERAGES THAT HAVE BEEN FILLED AND**  
29 **SEALED IN EXPANDED POLYSTYRENE CONTAINERS OUTSIDE THE STATE BEFORE**

1 RECEIPT BY THE FOOD SERVICE BUSINESS;

2 (III) MATERIALS USED TO PACKAGE RAW, UNCOOKED, OR  
3 BUTCHERED MEAT, FISH, POULTRY, OR SEAFOOD FOR OFF-PREMISES  
4 CONSUMPTION; AND

5 (IV) NONFOAM POLYSTYRENE FOOD SERVICE PRODUCTS.

6 (D) (1) "FOOD SERVICE BUSINESS" MEANS A BUSINESS THAT SELLS OR  
7 PROVIDES FOOD FOR CONSUMPTION ON OR OFF THE PREMISES IN THE STATE.

8 (2) "FOOD SERVICE BUSINESS" INCLUDES:

9 (I) RESTAURANTS;

10 (II) FAST FOOD-STYLE RESTAURANTS;

11 (III) CAFES;

12 (IV) DELICATESSENS;

13 (V) COFFEE SHOPS;

14 (VI) SUPERMARKETS AND GROCERY STORES;

15 (VII) VENDING TRUCKS AND CARTS;

16 (VIII) FOOD TRUCKS;

17 (IX) MOVIE THEATERS;

18 (X) DINNER THEATERS; AND

19 (XI) BUSINESS AND INSTITUTIONAL CAFETERIAS, INCLUDING  
20 THOSE OPERATED BY OR ON BEHALF OF THE STATE.

21 (E) "SCHOOL" INCLUDES:

22 (1) A PUBLIC ELEMENTARY OR SECONDARY SCHOOL;

23 (2) A NONPUBLIC ELEMENTARY OR SECONDARY SCHOOL; AND

24 (3) AN INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN

1 **§ 10–101(H) OF THE EDUCATION ARTICLE.**

2 **9–2202.**

3 **THIS SUBTITLE DOES NOT AFFECT THE AUTHORITY OF A COUNTY,**  
4 **MUNICIPALITY, OR OTHER LOCAL GOVERNMENT TO ENACT STANDARDS THAT ARE**  
5 **AT LEAST AS STRINGENT AS THE STANDARDS ESTABLISHED IN THIS SUBTITLE.**

6 **9–2203.**

7 **(A) ON OR AFTER JANUARY 1, 2019, A PERSON MAY NOT SELL OR OFFER**  
8 **FOR SALE IN THE STATE AN EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT.**

9 **(B) ON OR AFTER JANUARY 1, 2019, A FOOD SERVICE BUSINESS OR SCHOOL**  
10 **MAY NOT SELL OR PROVIDE FOOD IN AN EXPANDED POLYSTYRENE FOOD SERVICE**  
11 **PRODUCT.**

12 **9–2204.**

13 **(A) THE DEPARTMENT SHALL CONDUCT A PUBLIC EDUCATION AND**  
14 **OUTREACH CAMPAIGN BEFORE AND DURING THE IMPLEMENTATION OF THIS**  
15 **SUBTITLE.**

16 **(B) THE PUBLIC EDUCATION AND OUTREACH CAMPAIGN REQUIRED UNDER**  
17 **SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:**

18 **(1) CONTACT WITH FOOD SERVICE BUSINESSES, IN CONSULTATION**  
19 **WITH COUNTY HEALTH DEPARTMENTS AND RELEVANT TRADE ORGANIZATIONS;**

20 **(2) CONTACT WITH SCHOOLS, IN CONSULTATION WITH THE**  
21 **MARYLAND STATE DEPARTMENT OF EDUCATION;**

22 **(3) DISTRIBUTION OF INFORMATION THROUGH STATE INTERNET**  
23 **AND WEB–BASED RESOURCES; AND**

24 **(4) NEWS RELEASES AND NEWS EVENTS.**

25 **9–2205.**

26 **THE DEPARTMENT MAY GRANT TO A FOOD SERVICE BUSINESS OR SCHOOL A**  
27 **WAIVER FROM THE APPLICATION OF § 9–2203(B) OF THIS SUBTITLE FOR A PERIOD**  
28 **OF UP TO 1 YEAR IF THE DEPARTMENT DETERMINES THAT ACHIEVING COMPLIANCE**  
29 **UNDER THIS SUBTITLE WOULD PRESENT AN UNDUE HARDSHIP OR A PRACTICAL**

1 DIFFICULTY NOT GENERALLY APPLICABLE TO OTHER FOOD SERVICE BUSINESSES  
2 OR SCHOOLS IN SIMILAR CIRCUMSTANCES.

3 **9-2206.**

4 (A) A COUNTY HEALTH DEPARTMENT SHALL ENFORCE § 9-2203 OF THIS  
5 SUBTITLE.

6 (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A COUNTY MAY IMPOSE  
7 A PENALTY NOT EXCEEDING \$250 ON:

8 (1) A PERSON WHO VIOLATES § 9-2203(A) OF THIS SUBTITLE; OR

9 (2) A FOOD SERVICE BUSINESS THAT VIOLATES § 9-2203(B) OF THIS  
10 SUBTITLE.

11 (C) A PENALTY MAY NOT BE IMPOSED UNDER THIS SECTION UNLESS:

12 (1) THE COUNTY HEALTH DEPARTMENT FIRST ISSUES A WRITTEN  
13 NOTICE OF VIOLATION TO THE PERSON OR THE FOOD SERVICE BUSINESS; AND

14 (2) THE VIOLATION IS NOT CORRECTED WITHIN 3 MONTHS OF  
15 RECEIPT OF THE WRITTEN NOTICE.

16 (D) A COUNTY HEALTH DEPARTMENT SHALL NOTIFY THE DEPARTMENT OF  
17 ANY VIOLATION OF § 9-2203 OF THIS SUBTITLE.

18 **9-2207.**

19 THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
21 1, 2018.