

SENATE BILL 285

M3, F1, F3
SB 651/18 – EHE & FIN

9lr0851
CF HB 109

By: **Senators Kagan, Augustine, Benson, Carter, Elfreth, Ellis, Feldman, Ferguson, Griffith, Guzzone, Hester, Kelley, King, Kramer, Lam, Lee, Nathan–Pulliam, Patterson, Peters, Pinsky, Rosapepe, Smith, Waldstreicher, Washington, West, Young, and Zucker**

Introduced and read first time: January 28, 2019

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 28, 2019

CHAPTER _____

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; providing that certain provisions of this Act do not prohibit a person
10 from storing a food service product for later distribution outside the State; requiring
11 the Department of the Environment to conduct a certain public education and
12 outreach campaign in a certain manner; authorizing the Department to provide a
13 certain waiver to a certain food service business or certain school under certain
14 circumstances; requiring a ~~county health department~~ unit of county government to
15 enforce certain provisions of this Act; authorizing a ~~county health department~~ unit
16 of county government to impose a certain penalty for certain violations; prohibiting
17 the imposition of a certain penalty unless certain conditions are met; requiring a
18 ~~county health department~~ unit of county government to notify the Department of
19 certain violations; authorizing the Department to adopt certain regulations; defining
20 certain terms; and generally relating to expanded polystyrene food service products.

21 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Environment

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

4 Annotated Code of Maryland

5 (2014 Replacement Volume and 2018 Supplement)

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

7 That the Laws of Maryland read as follows:

8 **Article – Environment**

9 **SUBTITLE 22. EXPANDED POLYSTYRENE.**

10 **9–2201.**

11 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
12 INDICATED.

13 (B) “EXPANDED POLYSTYRENE” MEANS BLOWN POLYSTYRENE AND
14 EXPANDED AND EXTRUDED FOAMS THAT ARE THERMOPLASTIC PETROCHEMICAL
15 MATERIALS UTILIZING A STYRENE MONOMER AND PROCESSED BY A NUMBER OF
16 TECHNIQUES, INCLUDING FUSION OF POLYMER SPHERES (EXPANDABLE BEAD
17 POLYSTYRENE), INJECTION MOLDING, FOAM MOLDING, AND EXTRUSION–BLOW
18 MOLDING (EXTRUDED FOAM POLYSTYRENE).

19 (C) (1) “EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT” MEANS A
20 PRODUCT MADE OF EXPANDED POLYSTYRENE THAT IS USED FOR SELLING OR
21 PROVIDING FOOD.

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

23 (I) FOOD CONTAINERS;

24 (II) PLATES;

25 (III) HOT AND COLD BEVERAGE CUPS;

26 (IV) MEAT AND VEGETABLE TRAYS; AND

27 (V) EGG CARTONS.

28 (3) “EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT” DOES NOT
29 INCLUDE:

1 (I) PREPACKAGED SOUP OR OTHER FOOD THAT A FOOD
2 SERVICE BUSINESS SELLS OR OTHERWISE PROVIDES TO ITS CUSTOMERS IN
3 EXPANDED POLYSTYRENE CONTAINERS THAT HAVE BEEN ~~FILLED AND SEALED~~
4 PACKAGED BEFORE RECEIPT BY THE FOOD SERVICE BUSINESS;

5 (II) FOOD OR BEVERAGES THAT HAVE BEEN ~~FILLED AND~~
6 ~~SEALED~~ PACKAGED IN EXPANDED POLYSTYRENE CONTAINERS OUTSIDE THE STATE
7 BEFORE RECEIPT BY THE FOOD SERVICE BUSINESS;

8 (III) MATERIALS USED TO PACKAGE RAW, UNCOOKED, OR
9 BUTCHERED MEAT, FISH, POULTRY, OR SEAFOOD FOR OFF-PREMISES
10 CONSUMPTION; OR

11 (IV) NONFOAM POLYSTYRENE FOOD SERVICE PRODUCTS.

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

14 (2) "FOOD SERVICE BUSINESS" INCLUDES:

15 (I) RESTAURANTS;

16 (II) FAST FOOD STYLE RESTAURANTS;

17 (III) CAFES;

18 (IV) DELICATESSENS;

19 (V) COFFEE SHOPS;

20 (VI) SUPERMARKETS AND GROCERY STORES;

21 (VII) VENDING TRUCKS AND CARTS;

22 (VIII) FOOD TRUCKS;

23 (IX) MOVIE THEATERS;

24 (X) DINNER THEATERS; AND

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

27 (E) "SCHOOL" INCLUDES:

- 1 (1) A PUBLIC ELEMENTARY OR SECONDARY SCHOOL;
- 2 (2) A NONPUBLIC ELEMENTARY OR SECONDARY SCHOOL; AND
- 3 (3) AN INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN
- 4 § 10-101(H) OF THE EDUCATION ARTICLE.

5 (F) “UNIT OF COUNTY GOVERNMENT” INCLUDES:

- 6 (1) A LOCAL HEALTH DEPARTMENT; OR
- 7 (2) A LOCAL ENVIRONMENTAL DEPARTMENT.

8 **9-2202.**

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

12 **9-2203.**

13 (A) ON OR AFTER ~~JANUARY~~ JULY 1, 2020, A PERSON MAY NOT SELL OR
14 OFFER FOR SALE IN THE STATE AN EXPANDED POLYSTYRENE FOOD SERVICE
15 PRODUCT.

16 (B) ON OR AFTER ~~JANUARY~~ JULY 1, 2020, A FOOD SERVICE BUSINESS OR
17 SCHOOL MAY NOT SELL OR PROVIDE FOOD IN AN EXPANDED POLYSTYRENE FOOD
18 SERVICE PRODUCT.

19 (C) THIS SECTION DOES NOT PROHIBIT A PERSON FROM STORING A FOOD
20 STORAGE PRODUCT FOR LATER DISTRIBUTION OUTSIDE THE STATE.

21 **9-2204.**

22 (A) THE DEPARTMENT SHALL CONDUCT A PUBLIC EDUCATION AND
23 OUTREACH CAMPAIGN BEFORE AND DURING THE IMPLEMENTATION OF THIS
24 SUBTITLE.

25 (B) THE PUBLIC EDUCATION AND OUTREACH CAMPAIGN REQUIRED UNDER
26 SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

27 (1) CONTACT WITH FOOD SERVICE BUSINESSES, IN CONSULTATION
28 WITH ~~COUNTY HEALTH DEPARTMENTS~~ RELEVANT UNITS OF COUNTY GOVERNMENT
29 AND RELEVANT TRADE ORGANIZATIONS;

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

3 (3) DISTRIBUTION OF INFORMATION THROUGH STATE INTERNET
4 AND WEB-BASED RESOURCES; AND

5 (4) NEWS RELEASES AND NEWS EVENTS.

6 **9-2205.**

7 THE DEPARTMENT MAY GRANT TO A FOOD SERVICE BUSINESS OR SCHOOL A
8 WAIVER FROM THE APPLICATION OF § 9-2203(B) OF THIS SUBTITLE FOR A PERIOD
9 OF UP TO 1 YEAR IF THE DEPARTMENT DETERMINES THAT ACHIEVING COMPLIANCE
10 UNDER THIS SUBTITLE WOULD PRESENT AN UNDUE HARDSHIP OR A PRACTICAL
11 DIFFICULTY NOT GENERALLY APPLICABLE TO OTHER FOOD SERVICE BUSINESSES
12 OR SCHOOLS IN SIMILAR CIRCUMSTANCES.

13 **9-2206.**

14 (A) A ~~COUNTY HEALTH DEPARTMENT~~ UNIT OF COUNTY GOVERNMENT
15 SHALL ENFORCE § 9-2203 OF THIS SUBTITLE.

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

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

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

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

22 (1) THE ~~COUNTY HEALTH DEPARTMENT~~ UNIT OF COUNTY
23 GOVERNMENT FIRST ISSUES A WRITTEN NOTICE OF VIOLATION TO THE PERSON OR
24 THE FOOD SERVICE BUSINESS; AND

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

27 (D) A ~~COUNTY HEALTH DEPARTMENT~~ UNIT OF COUNTY GOVERNMENT
28 SHALL NOTIFY THE DEPARTMENT OF ANY VIOLATION OF § 9-2203 OF THIS
29 SUBTITLE.

30 **9-2207.**

1 **THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.**

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
3 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.