

Chapter 579

(House Bill 109)

AN ACT concerning

**Environment – Expanded Polystyrene Food Service Products – ~~Prohibition~~
Prohibitions**

FOR the purpose of establishing that this Act does not affect the authority of a county, municipality, or other local government to enact standards that are at least as stringent as the standards established in this Act; prohibiting a person from selling in the State a certain expanded polystyrene food service product on or after a certain date; prohibiting a certain food service business or certain school from selling or providing food or beverages in a certain expanded polystyrene food service product on or after a certain date; providing that certain provisions of this Act do not prohibit a person from storing a food service product for later distribution outside the State; requiring the Department of the Environment to conduct a certain public education and outreach campaign in a certain manner; requiring the Department to conduct a public education and outreach antilittering campaign; authorizing the Department to provide a certain waiver to a certain food service business or certain school under certain circumstances; requiring a ~~county health department~~ unit of county government to enforce certain provisions of this Act; authorizing a ~~county health department~~ unit of county government to impose a certain penalty for certain violations; prohibiting the imposition of a certain penalty unless certain conditions are met; requiring a ~~county health department~~ unit of county government to notify the Department of certain violations; authorizing the Department to adopt certain regulations; defining certain terms; and generally relating to expanded polystyrene food service products.

BY adding to

Article – Environment

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

Annotated Code of Maryland

(2014 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Environment

SUBTITLE 22. EXPANDED POLYSTYRENE.

9–2201.

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

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

(C) (1) “EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT” MEANS A PRODUCT MADE OF EXPANDED POLYSTYRENE THAT IS ~~USED~~:

(I) USED FOR SELLING OR PROVIDING FOOD OR BEVERAGES;
AND

(II) 1. INTENDED BY THE MANUFACTURER TO BE USED ONCE FOR EATING OR DRINKING; OR

2. GENERALLY RECOGNIZED BY THE PUBLIC AS AN ITEM TO BE DISCARDED AFTER ONE USE.

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

(I) FOOD CONTAINERS;

(II) PLATES;

(III) HOT AND COLD BEVERAGE CUPS;

(IV) ~~MEAT AND VEGETABLE TRAYS~~ TRAYS; AND

(V) ~~EGG CARTONS~~ CARTONS FOR EGGS OR OTHER FOOD.

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

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

~~(H) (I)~~ **FOOD OR BEVERAGES THAT HAVE BEEN ~~FILLED AND SEALED~~ PACKAGED IN EXPANDED POLYSTYRENE CONTAINERS ~~OUTSIDE THE STATE~~ BEFORE RECEIPT BY ~~THE~~ A FOOD SERVICE BUSINESS;**

~~(HH) (II)~~ **MATERIALS A PRODUCT MADE OF EXPANDED POLYSTYRENE THAT IS USED TO PACKAGE RAW, UNCOOKED, OR BUTCHERED MEAT, FISH, POULTRY, OR SEAFOOD ~~FOR OFF-PREMISES CONSUMPTION;~~ OR**

~~(IV) (III)~~ **NONFOAM POLYSTYRENE FOOD SERVICE PRODUCTS.**

(D) (1) **“FOOD SERVICE BUSINESS” MEANS A BUSINESS IN THE STATE THAT SELLS OR PROVIDES FOOD OR BEVERAGES FOR CONSUMPTION ON OR OFF THE PREMISES ~~IN THE STATE~~.**

(2) **“FOOD SERVICE BUSINESS” INCLUDES A BUSINESS OR INSTITUTIONAL CAFETERIA, INCLUDING A CAFETERIA OPERATED BY OR ON BEHALF OF THE STATE OR A LOCAL GOVERNMENT;**

~~(I)~~ **~~RESTAURANTS;~~**

~~(II)~~ **~~FAST FOOD STYLE RESTAURANTS;~~**

~~(III)~~ **~~CAFES;~~**

~~(IV)~~ **~~DELICATESSENS;~~**

~~(V)~~ **~~COFFEE SHOPS;~~**

~~(VI)~~ **~~SUPERMARKETS AND GROCERY STORES;~~**

~~(VII)~~ **~~VENDING TRUCKS AND CARTS;~~**

~~(VIII)~~ **~~FOOD TRUCKS;~~**

~~(IX)~~ **~~MOVIE THEATERS;~~**

~~(X)~~ **~~DINNER THEATERS; AND~~**

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

(E) **“SCHOOL” INCLUDES:**

(1) **A PUBLIC ELEMENTARY OR SECONDARY SCHOOL;**

(2) A NONPUBLIC ELEMENTARY OR SECONDARY SCHOOL; AND

(3) AN INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN § 10-101(H) OF THE EDUCATION ARTICLE.

(F) “UNIT OF COUNTY GOVERNMENT” INCLUDES:

(1) A LOCAL HEALTH DEPARTMENT; OR

(2) A LOCAL ENVIRONMENTAL DEPARTMENT.

9-2202.

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

9-2203.

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

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

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

9-2204.

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

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

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

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

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

(4) NEWS RELEASES AND NEWS EVENTS.

(C) THE DEPARTMENT SHALL CONDUCT A PUBLIC EDUCATION AND OUTREACH ANTILITTERING CAMPAIGN.

9-2205.

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

9-2206.

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

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

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

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

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

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

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

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

9-2207.

THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

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

Enacted under Article II, § 17(c) of the Maryland Constitution, May 25, 2019.