

HOUSE BILL 109

M3, F1, F3
HB 538/18 – ENV & ECM

9lr0422
CF SB 285

By: **Delegates Lierman, Anderson, Bagnall, D. Barnes, Barron, Bartlett, Bridges, Brooks, Cain, Charkoudian, Clippinger, Conaway, Cullison, Ebersole, Feldmark, Fraser–Hidalgo, Gilchrist, Guyton, Haynes, Healey, Hettleman, Hill, Kelly, Korman, Lafferty, Lehman, R. Lewis, Love, Luedtke, Moon, Mosby, Palakovich Carr, Reznik, Shetty, Smith, Solomon, Stein, Stewart, Terrasa, Washington, Wells, ~~and K. Young~~ K. Young, and Cardin**

Introduced and read first time: January 18, 2019

Assigned to: Environment and Transportation and Economic Matters

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 8, 2019

CHAPTER _____

1 AN ACT concerning

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

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

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 the Department of certain violations; authorizing the Department to adopt certain
 2 regulations; defining certain terms; and generally relating to expanded polystyrene
 3 food service products.

4 BY adding to

5 Article – Environment

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

8 Annotated Code of Maryland

9 (2014 Replacement Volume and 2018 Supplement)

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

12 **Article – Environment**

13 **SUBTITLE 22. EXPANDED POLYSTYRENE.**

14 **9–2201.**

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

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

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

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

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

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

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

32 (I) FOOD CONTAINERS;

- 1 (II) PLATES;
- 2 (III) HOT AND COLD BEVERAGE CUPS;
- 3 (IV) ~~MEAT AND VEGETABLE TRAYS~~ TRAYS; AND
- 4 (V) ~~EGG CARTONS~~ CARTONS FOR EGGS OR OTHER FOOD.

5 (3) "EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT" DOES NOT
6 INCLUDE:

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

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

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

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

18 (D) (1) "FOOD SERVICE BUSINESS" MEANS A BUSINESS IN THE STATE
19 THAT SELLS OR PROVIDES FOOD OR BEVERAGES FOR CONSUMPTION ON OR OFF THE
20 PREMISES ~~IN THE STATE.~~

21 (2) "FOOD SERVICE BUSINESS" INCLUDES A BUSINESS OR
22 INSTITUTIONAL CAFETERIA, INCLUDING A CAFETERIA OPERATED BY OR ON BEHALF
23 OF THE STATE OR A LOCAL GOVERNMENT;

24 ~~(I)~~ (I) ~~RESTAURANTS;~~

25 ~~(H)~~ (H) ~~FAST FOOD STYLE RESTAURANTS;~~

26 ~~(H)~~ (H) ~~CAFES;~~

27 ~~(IV)~~ (IV) ~~DELICATESSENS;~~

28 ~~(V)~~ (V) ~~COFFEE SHOPS;~~

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~~(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.

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

3 **9-2204.**

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

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

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

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

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

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

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

19 **9-2205.**

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

26 **9-2206.**

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

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

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

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

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

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

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

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

13 9-2207.

14 THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
16 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.