
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1233 Session of
2018

INTRODUCED BY LEACH AND MCGARRIGLE, AUGUST 23, 2018

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, AUGUST 23, 2018

AN ACT

1 Amending Title 27 (Environmental Resources) of the Pennsylvania
2 Consolidated Statutes, in environmental protection, providing
3 for polystyrene food container prohibition.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 27 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 43

9 POLYSTYRENE FOOD CONTAINER PROHIBITION

10 Sec.

11 4301. Purpose.

12 4302. Definitions.

13 4303. Prohibition.

14 4304. Complaints.

15 4305. Compliance.

16 4306. Regulations.

17 4307. Penalties.

18 4308. Applicability.

19 § 4301. Purpose.

1 The intent of this chapter is to reduce the adverse
2 environmental impact of polystyrene food containers by
3 prohibiting a food establishment from dispensing prepared food
4 to a customer in a polystyrene food service container.

5 § 4302. Definitions.

6 The following words and phrases when used in this chapter
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Department." The Department of Environmental Protection of
10 the Commonwealth.

11 "Food establishment." All sales outlets, stores, shops or
12 other places of business located within this Commonwealth which
13 operate primarily to sell or convey food directly to the
14 ultimate consumer, which food is predominately contained,
15 wrapped or held in or on packaging. The term shall include, but
16 not be limited to, any place where food is prepared, mixed,
17 cooked, baked, smoked, preserved, bottled, packaged, handled,
18 stored, manufactured and sold or offered for sale, including,
19 but not limited to, any fixed or mobile restaurant, drive-in,
20 coffee shop, cafeteria, short order cafe, delicatessen,
21 luncheonette, grill, sandwich shop, soda fountain, tavern, bar,
22 cocktail lounge, nightclub, roadside stand, prepared food take-
23 out place, industrial feeding establishment, catering kitchen,
24 commissary, grocery store, public food market, food stand or
25 similar place in which food or drink is prepared for sale or for
26 service on the premises or elsewhere, and any other
27 establishment or operation, including homes, where food is
28 processed, prepared, stored, served or provided for the public
29 for charge.

30 "Polystyrene food service container." As follows:

1 (1) A single-use polystyrene foam food service container
2 such as a cup, bowl, plate and clamshell-style container in
3 addition to a foam cooler that is not encased in another
4 material.

5 (2) A single-use polystyrene solid plastic food
6 container such as a cup, bowl, plate, clamshell-style
7 container, cutlery, straw and cup lid.

8 "Prepared food." Food or beverage prepared for public
9 consumption by a food establishment using any cooking or food
10 preparation technique. The term does not include raw or uncooked
11 meat, fish or eggs, provided for public consumption without
12 further food preparation.

13 "Retailer." A person that purchases or receives products
14 from any source for the purpose of sale to a consumer.

15 § 4303. Prohibition.

16 (a) Food establishment.--A food establishment is prohibited
17 from the following:

18 (1) Dispensing prepared food in or on a polystyrene food
19 service container.

20 (2) Selling, giving or providing eating utensils or
21 straws composed of polystyrene.

22 (b) Retailer.--A retailer is prohibited from selling, giving
23 or providing a polystyrene food service container except for the
24 following:

25 (1) Meat trays.

26 (2) Egg cartons.

27 (3) Packing materials.

28 § 4304. Complaints.

29 The department shall prescribe a procedure for a person to
30 file a complaint with the department for a violation of this

1 chapter.

2 § 4305. Compliance.

3 The department shall develop and maintain a publicly
4 accessible Internet website with all of the following:

5 (1) A description of the information necessary to comply
6 with the prohibition under section 4303 (relating to
7 prohibition).

8 (2) A description of the procedure to file a complaint
9 with the department for a violation of the prohibition under
10 section 4304 (relating to complaints).

11 § 4306. Regulations.

12 The department may promulgate rules and regulations necessary
13 to implement the provisions of this chapter.

14 § 4307. Penalties.

15 (a) Imposition.--The department may impose a civil penalty
16 in the following amounts for a violation of this chapter:

17 (1) For a first violation, \$500.

18 (2) For a second violation, \$1,000.

19 (3) For a third or subsequent violation, \$2,000.

20 (b) Payment.--Any civil penalty collected under subsection
21 (a) shall be paid to the department.

22 (c) Local law.--This chapter shall preempt any ordinance or
23 resolution passed or adopted by any political subdivision that
24 is effective on or before or after the effective date of this
25 chapter to the extent that the ordinance or resolution conflicts
26 or is inconsistent with the provisions of this chapter.

27 § 4308. Applicability.

28 This act shall apply to transactions consummated after
29 December 31, 2018.

30 Section 2. This act shall take effect immediately.