

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 1214 - L.D. 1631

**An Act To Amend the Laws Banning Polystyrene Foam Regarding
Packaging for Meat, Poultry, Fish, Seafood and Eggs**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, due to the pandemic related to the novel coronavirus disease, the Department of Environmental Protection has delayed until July 1, 2021 the enforcement of the law prohibiting the processing, preparation, sale or provision of food or beverages by certain establishments in or on a polystyrene foam disposable food service container, which was set to take effect on January 1, 2021; and

Whereas, that law exempts from its prohibition the retail sale of food or beverages that certain establishments purchase prepackaged at wholesale in or on a polystyrene foam disposable food service container; and

Whereas, that exemption has been interpreted to allow meat, poultry, fish, seafood and eggs from out-of-state producers, but not Maine-based producers, to be sold at retail in Maine when purchased prepackaged at wholesale in or on a polystyrene foam disposable food service container; and

Whereas, to ensure fairness in the treatment of both out-of-state and Maine-based meat, poultry, fish, seafood and egg producers under that law prior to its anticipated enforcement beginning July 1, 2021, immediate enactment of this legislation is necessary; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §1571, sub-§3, as enacted by PL 2019, c. 62, §1, is amended to read:

3. Disposable food service container. "Disposable food service container" means service ware designed for one-time use.

A. "Disposable food service container" includes service ware for take-out foods, ~~packaged meat, eggs,~~ bakery products and leftovers from partially consumed meals prepared by covered establishments.

B. "Disposable food service container" does not include polystyrene foam coolers or ice chests that are used for the processing or shipping of seafood or service ware used to contain, transport or otherwise package raw, uncooked or butchered meat, poultry, fish, seafood or eggs.

This subsection is repealed July 1, 2025.

Sec. 2. 38 MRSA §1571, sub-§3-A is enacted to read:

3-A. Disposable food service container. "Disposable food service container" means service ware designed for one-time use.

A. "Disposable food service container" includes service ware for take-out foods, bakery products, leftovers from partially consumed meals prepared by covered establishments and, except as provided in paragraph B, service ware used to contain, transport or otherwise package raw, uncooked or butchered meat, poultry, fish, seafood or eggs.

B. "Disposable food service container" does not include polystyrene foam coolers or ice chests that are used for the processing or shipping of seafood.

This subsection is effective July 1, 2025.

Sec. 3. 38 MRSA §1571, sub-§6, as enacted by PL 2019, c. 62, §1, is amended to read:

6. Service ware. "Service ware" means a container, bowl, plate, tray, carton, cup, lid, sleeve, stirrer or other item designed to be used to contain, transport, serve or consume ~~prepared foods~~ food or beverages.

Sec. 4. 38 MRSA §1572, sub-§3, ¶C, as enacted by PL 2019, c. 62, §1, is amended to read:

C. Sell at retail food or beverages in or on a disposable food service container that is composed in whole or in part of polystyrene foam that the covered establishment purchases prepackaged at wholesale.

This paragraph is repealed July 1, 2025.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.