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Legislative Document

No. 621

H.P. 449

House of Representatives, February 5, 2019

An Act To Prohibit Extruded Polystyrene Food Service Containers

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative CARNEY of Cape Elizabeth.
Cosponsored by Senator MILLETT of Cumberland and
Representatives: DENK of Kennebunk, GROHOSKI of Ellsworth, LANDRY of Farmington,
MAXMIN of Nobleboro, TALBOT ROSS of Portland, ZEIGLER of Montville, Senators:
BREEN of Cumberland, CARSON of Cumberland.

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

2 **Sec. 1. 38 MRSA §1651, sub-§§1-A and 1-B** are enacted to read:

3 **1-A. Extruded polystyrene foam.** "Extruded polystyrene foam" means blown
4 polystyrene and expanded and extruded foams using a styrene monomer.

5 **1-B. Extruded polystyrene foam food service container.** "Extruded polystyrene
6 foam food service container" means a container made in whole or in part with extruded
7 polystyrene foam, including, but not limited to, a cup, bowl, plate, tray, carton or other
8 container designed for use for food or beverages and a foam cooler that is not encased in
9 another material.

10 **Sec. 2. 38 MRSA §1651, sub-§2,** as enacted by PL 1987, c. 804, is repealed.

11 **Sec. 3. 38 MRSA §1651, sub-§2-A** is enacted to read:

12 **2-A. Food establishment.** "Food establishment" means a retail, wholesale or other
13 establishment that processes, prepares, sells or provides food or beverages. "Food
14 establishment" includes, but is not limited to:

15 A. Convenience stores, restaurants, grocery stores, markets, delicatessens and
16 retailers of merchandise and dry goods that sell or provide food or beverages to
17 consumers;

18 B. Food pantries, churches, community organizations, catered events, seasonal or
19 temporary businesses such as agricultural fairs or farmers' markets and events that
20 provide food or beverages without charge; and

21 C. Any place that manufactures, processes, prepares, bottles, packages, handles or
22 stores food or beverages for retail sale or wholesale sale.

23 **Sec. 4. 38 MRSA §1652,** as amended by PL 2011, c. 657, Pt. BB, §16, is further
24 amended to read:

25 **§1652. State and political subdivision facilities and functions**

26 **1. Prohibition.** A food service establishment providing or serving individual
27 portions of food or a beverage at a facility or function of the State or of a political
28 subdivision may not provide or serve those portions in or on containers that are composed
29 in whole or in part of extruded polystyrene foam plastic, unless the food service
30 establishment recycles the containers following use.

31 **1-A. Prohibition on plastic beverage stirrers.** A food service establishment
32 providing or serving a beverage at a facility or function of the State or of a political
33 subdivision ~~shall~~ may not provide beverage stirrers that are composed of plastic. For the
34 purposes of this subsection, ~~the term,~~ "beverage stirrer," is means a device ~~which~~ that is
35 designed solely for the purpose of mixing liquids intended for internal human
36 consumption in single serving containers.

1 **2. Schools.** A school or school administrative district shall comply with the
2 provisions of this section except that a food service establishment providing such services
3 to satellite facilities at the school or school administrative district serviced by central
4 kitchen facilities not at the same location is exempt. A school or school administrative
5 district may submit a request to the department for a 3-year waiver from the provisions of
6 this section. The department may grant the requested waiver as long as:

7 A. The request includes an explanation of the district's financial hardship and a waste
8 reduction plan. The plan must be designed to achieve the goal of using durable
9 containers in place of disposable containers, unless it is shown that the use of durable
10 containers is not feasible and alternative goals are proposed. The plan must include a
11 proposed capital plan for the acquisition of necessary equipment; and

12 B. The school or school administrative district has held a public hearing on the
13 proposal to use extruded polystyrene foam food service containers and the waste
14 reduction plan.

15 The department may renew the waiver for 2-year periods if it finds that the school or
16 school administrative district has made reasonable progress toward implementing the
17 waste reduction plan. The department, within available resources, may provide technical
18 and financial assistance to schools and school administrative districts to assist them with
19 meeting the goal of using durable containers.

20 **3. Meals on wheels.** A food service establishment funded in whole or in part,
21 directly or indirectly, by the Department of Health and Human Services to provide meals
22 at dispersed locations from central kitchen facilities is exempt.

23 **Sec. 5. 38 MRSA §1652-A** is enacted to read:

24 **§1652-A. Prohibition of extruded polystyrene foam food service containers**

25 **1. Prohibition of extruded polystyrene foam food service containers.** Except as
26 provided in subsection 2 and except for food establishments providing food or beverages
27 under section 1652, a food establishment may not process, prepare, sell or provide food
28 or beverages in or on an extruded polystyrene foam food service container.

29 **2. Exemptions.** A food establishment may process, prepare, sell or provide food or
30 beverages in or on an extruded polystyrene foam food service container:

31 A. In an emergency for the immediate preservation of the public health or safety;

32 B. That a member of the public brings to the food establishment; and

33 C. For the retail sale of items that the food establishment receives wholesale in
34 packaging that contains extruded polystyrene foam.

35 **Sec. 6. 38 MRSA §1654**, as enacted by PL 1987, c. 804, is repealed.

SUMMARY

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This bill prohibits food establishments from processing, preparing, selling or providing food in or on an extruded polystyrene foam food service container with certain exceptions.