

ASSEMBLY, No. 3346

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Prohibits sale of expanded polystyrene food service products and food packaged in those products.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/16/2020)

1 **AN ACT** concerning expanded polystyrene food service products
2 and supplementing Title 13 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. As used in this act:

8 “Certified local health agency” means the same as that term is
9 defined in section 3 of P.L.1977, c.443 (C.26:3A2-23).

10 “Department” means the Department of Environmental
11 Protection.

12 “Expanded polystyrene” means blown polystyrene and expanded
13 and extruded foams that are thermoplastic petrochemical materials
14 utilizing a styrene monomer and processed by a number of
15 techniques, including, but not limited to, fusion of polymer spheres
16 (expandable bead polystyrene), injection molding, foam molding,
17 and extrusion-blow molding (extruded foam polystyrene).

18 “Expanded polystyrene food service product” means a product
19 made, in whole or in part, of expanded polystyrene that is used for
20 selling or providing a food or beverage, and includes, but is not
21 limited to, a food container, plate, hot or cold beverage cup, meat or
22 vegetable tray, or egg carton. “Expanded polystyrene food service
23 product” shall not include a product used to package raw, uncooked,
24 or butchered meat, fish, poultry, or seafood for off-premises
25 consumption.

26 “Food service business” means a business that sells or provides
27 food for consumption on or off the premises, and includes, but is
28 not limited to, any restaurant, café, delicatessen, coffee shop,
29 supermarket or grocery store, vending truck or cart, food truck,
30 movie theater, or business or institutional cafeteria, including those
31 operated by or on behalf of the State.

32 “School” means any public or nonpublic elementary or
33 secondary school or any public or private institution of higher
34 education in the State.

35
36 2. a. (1) No person shall sell or offer for sale in the State any
37 expanded polystyrene food service product.

38 (2) No food service business or school shall sell or provide any
39 food in an expanded polystyrene food service product.

40 b. Any person who violates this section shall be liable to a civil
41 penalty of up to \$250 for each violation, to be collected in a
42 summary proceeding pursuant to the “Penalty Enforcement Law of
43 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a
44 continuing nature, each day during which it continues shall
45 constitute a separate and distinct offense. The Department of
46 Environmental Protection shall have the authority to enforce the
47 provisions of this act. The department may, pursuant to the
48 provisions of the “County Environmental Health Act,” P.L.1977,

1 c.443 (C.26:3A2-21 et seq.), delegate enforcement authority under
2 this act to certified local health agencies.

3 c. Notwithstanding the provisions of subsection b. of this
4 section, a penalty shall not be imposed pursuant to this section
5 unless the department or a certified local health agency has first
6 issued a written notice of violation to the person, food service
7 business, or school, and the violation has not been corrected within
8 three months after receipt of the written notice by the person, food
9 service business, or school. A certified local health agency shall
10 notify the department of any violations of this act.

11
12 3. The Department of Environmental Protection shall, in
13 consultation with the Department of Health, the Department of
14 Education, the Office of the Secretary of Higher Education,
15 certified local health agencies, and appropriate trade and business
16 groups, develop and implement a public education and outreach
17 program concerning the environmental hazards of expanded
18 polystyrene food service products and the provisions of this act.

19
20 4. The Department of Environmental Protection shall adopt,
21 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
22 (C.52:14B-1 et seq.), such rules and regulations as may be
23 necessary for implementation of this act.

24
25 5. Section 2 of this act shall take effect on the 365th day
26 following the date of enactment of this act and the remainder of this
27 act shall take effect immediately.

28 29 30 STATEMENT

31
32 This bill would prohibit the sale of expanded polystyrene (EPS)
33 food service products and food packaged in those products.

34 EPS (commonly referred to as “styrofoam”) is a type of plastic
35 manufactured from nonrenewable petroleum and used to make food
36 service products such as plates, cups, and packaging. These
37 products constitute a significant and growing portion of the solid
38 waste stream. Currently, there is no meaningful reuse or recycling
39 of EPS, and EPS products can take hundreds of years to deteriorate
40 in the environment or in a landfill. EPS is a notorious pollutant that
41 breaks down into smaller, non-biodegradable pieces that pose
42 significant threats to marine and other wildlife from ingestion. EPS
43 products are often found littering storm drains, streets, creeks,
44 parks, and other public places. Styrene, a component of EPS, has
45 been classified by the National Toxicology Program as “reasonably
46 anticipated to be a human carcinogen.”

47 Today, cost-effective, reusable, and biodegradable food service
48 products are readily available for most food service applications

1 and are less toxic and more environmentally friendly than EPS.
2 Numerous jurisdictions throughout the country have banned the sale
3 and use of EPS food service products, and many local and national
4 businesses have successfully replaced EPS food service products
5 with affordable, reusable, and biodegradable alternatives.
6 Prohibiting the sale of expanded polystyrene food service products,
7 and food sold in those products, will reduce the amount of garbage
8 sent to landfills and protect the public health and the environment,
9 waterways, and wildlife of the State.

10 This bill would prohibit any person from selling or offering for
11 sale in the State any EPS food service product. The bill would also
12 prohibit any food service business or school (including public and
13 nonpublic primary and secondary schools and institutions of higher
14 education) from providing any food in an EPS food service product.
15 Any person who violates the bill would be liable to a civil penalty
16 of up to \$250 for each offense, and each day during which the
17 violation continues would constitute a separate offense. However,
18 no penalty would be imposed under the bill unless the violator has
19 first been issued a written notice of violation, and the violation is
20 not corrected within three months.

21 Finally, the Department of Environmental Protection would be
22 required to develop and implement a public education and outreach
23 program concerning the environmental hazards of EPS food service
24 products and the provisions of the bill.