

**HOUSE . . . . . No. 2087**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Frank I. Smizik and Michael J. Barrett***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to restrict the use of polystyrene.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	<i>1/11/2013</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/25/2013</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>	
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	
<i>Denise Provost</i>	<i>27th Middlesex</i>	
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	
<i>Aaron Vega</i>	<i>5th Hampden</i>	
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>	
<i>Cory Atkins</i>	<i>14th Middlesex</i>	
<i>Denise Andrews</i>	<i>2nd Franklin</i>	

*Thomas P. Conroy*

*13th Middlesex*

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**HOUSE . . . . . No. 2087**

By Representative Smizik of Brookline and Senator Barrett, a joint petition (accompanied by bill, House, No. 2087) of Frank I. Smizik and others relative to prohibiting the dispensing of food in disposable food service containers made from polystyrene or expanded polystyrene. Public Health.

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Thirteen**

An Act to restrict the use of polystyrene.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 An Act to Restrict the Use of Polystyrene

2 Chapter 111 of the general laws is hereby amended by inserting the following section 5T:

3 SECTION 1.

4 Definitions

5 “Disposable Food Container” means single-use disposable products used in the  
6 restaurant, food service, and food sales industries for serving, transporting, or packaging  
7 prepared, ready-to-consume, or uncooked food or beverages. This includes but is not limited to  
8 plates, cups, bowls, trays, and hinged or lidded containers. This does not include single-use  
9 disposable items such as straws, cup lids, or utensils.

10 “Food Establishment” means an operation that stores, prepares, packages, serves, vends,  
11 or otherwise provides food for human consumption, including but not limited to any  
12 establishment requiring a permit to operate in accordance with the State Food Code.

13 “Expanded Polystyrene” (EPS) means polystyrene that has been expanded or “blown”  
14 using a gaseous blowing agent into a solid foam.

15 “Polystyrene” means and includes expanded polystyrene which is a thermoplastic  
16 petrochemical material utilizing a styrene monomer and processed by any number of techniques  
17 including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection

18 molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term  
19 “polystyrene” also includes clear or solid polystyrene, which is known as “oriented polystyrene”.

20 “Prepared Food” means any food or beverage prepared for consumption on the food  
21 provider’s premises, using any cooking or food preparation technique. This does not include any  
22 raw uncooked meat, fish or eggs unless provided for consumption without further food  
23 preparation.

24 SECTION 2.

25 Except as provided herein, food establishments are prohibited from dispensing food to  
26 customers in disposable food service containers made from polystyrene or from expanded  
27 polystyrene.

28 SECTION 3.

29 The commissioner of public health shall promulgate regulations for the enforcement of  
30 the foregoing section, which regulations shall provide for fines not to exceed one thousand  
31 dollars for any single violation and for deferments, in accordance with the following:

32 A. Upon written application to the health department of the town or city in which it  
33 operates, and upon showing by the food establishment that the conditions of this provision would  
34 cause undue hardship, the municipal health department or its designee may defer application of  
35 this provision for a food establishment for a one year period. An “undue hardship” shall mean a  
36 situation unique to the food establishment where there are no reasonable alternatives to the use of  
37 expanded polystyrene disposable food service containers and compliance with this provision  
38 would cause significant economic hardship to that food establishment.

39 B. A food establishment granted a deferment must reapply prior to the end of that period  
40 and demonstrate continued undue hardship, if it wishes to have the deferment extended.  
41 Deferments may only be granted for intervals not to exceed one year.

42 C. The application for a deferment or extension thereof shall include all information  
43 necessary for the municipal health department or its designee to make its decision, including but  
44 not limited to, documentation showing the factual support for the claimed deferment. The  
45 municipal health department or its designee may require the applicant to provide such additional  
46 information that it reasonably deems necessary to render a decision.

47 D. The municipal health department or its designee may approve the deferment  
48 application, in whole or in part, with or without conditions.

49 SECTION 4.

50 No person shall purchase, and no person shall offer for purchase, or sell, or give away, or  
51 otherwise distribute any cups made from polystyrene or from expanded polystyrene.