

**HOUSE . . . . . No. 3252**

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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>1/20/2017</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/3/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>12/20/2017</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>12/20/2017</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>12/20/2017</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>	<i>12/20/2017</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>	<i>12/20/2017</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>12/20/2017</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>12/20/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>12/20/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>12/20/2017</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>12/20/2017</i>
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>12/20/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>12/20/2017</i>
<i>Natalie Higgins</i>	<i>4th Worcester</i>	<i>12/20/2017</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>12/20/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>12/20/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>12/20/2017</i>

<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>12/20/2017</i>
<i>Solomon Goldstein-Rose</i>	<i>3rd Hampshire</i>	<i>12/20/2017</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>12/20/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>12/20/2017</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>12/20/2017</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>12/20/2017</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>	<i>12/20/2017</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>12/20/2017</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>12/20/2017</i>
<i>Adrian Madaro</i>	<i>1st Suffolk</i>	<i>12/20/2017</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>12/20/2017</i>

**HOUSE . . . . . No. 3252**

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By Representative Smizik of Brookline and Senator Barrett, a joint petition (accompanied by bill, House, No. 3252) of Frank I. Smizik, Michael J. Barrett and others relative to prohibiting the dispensing of food in disposable food service containers made from polystyrene or from expanded polystyrene. Public Health.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 2066 OF 2015-2016.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
\_\_\_\_\_

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, hinged or lidded containers, straws, cup lids, and utensils.

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

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

14           “Polystyrene” means and includes expanded polystyrene which is a thermoplastic  
15 petrochemical material utilizing a styrene monomer and processed by any number of techniques  
16 including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection  
17 molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term  
18 “polystyrene” also includes clear or solid polystyrene, which is known as “oriented polystyrene”.

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

23           “Retail Establishment” means any commercial business facility that sells goods directly  
24 to the consumer including but not limited to grocery stores, pharmacies, liquor stores,  
25 convenience stores, restaurants, retail stores and vendors selling clothing, food, and personal  
26 items

27           SECTION 2.

28           Except as provided herein, on or after August 1, 2018, food establishments shall be  
29 prohibited from dispensing food to customers in disposable food service containers made from  
30 expanded polystyrene.

31           SECTION 3.

32           Except as provided herein, on and after August 1, 2018, retail establishments shall be  
33 prohibited from selling or distributing expanded polystyrene food service ware to customers.

34           SECTION 4.

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

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

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

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

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