

HOUSE No. 3502

The Commonwealth of Massachusetts

PRESENTED BY:

Marjorie C. Decker

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:
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Carlos González</i>	<i>10th Hampden</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>

<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>

HOUSE No. 3502

By Ms. Decker of Cambridge, a petition (accompanied by bill, House, No. 3502) of Marjorie C. Decker and others relative to the use of polystyrene containers and wares by certain food and retail establishments. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

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 SECTION 1. Chapter 111 of the General Laws, as appearing in the 2016 Official Edition,
2 is hereby amended by inserting after section 5S the following section:-

3 Section 5T. For the purposes of this section “disposable food container” shall mean
4 single-use disposable products used in the restaurant, food service, and food sales industries for
5 serving, transporting, or packaging prepared, ready-to-consume, or uncooked food or beverages.
6 This includes but is not limited to plates, cups, bowls, trays, hinged or lidded containers, straws,
7 cup lids, and utensils. “Expanded polystyrene” (EPS) shall mean polystyrene that has been
8 expanded or “blown” using a gaseous blowing agent into a solid foam. “Food establishment”
9 shall mean an operation that stores, prepares, packages, serves, vends, or otherwise provides food
10 for human consumption, including but not limited to any establishment requiring a permit to
11 operate in accordance with the State Food Code. “Polystyrene” shall mean and include expanded
12 polystyrene which is a thermoplastic petrochemical material utilizing a styrene monomer and

13 processed by any number of techniques including, but not limited to, fusion of polymer spheres
14 (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding
15 (extruded foam polystyrene). The term “polystyrene” shall also include clear or solid
16 polystyrene, which is known as “oriented polystyrene”. “Prepared food” shall mean any food or
17 beverage prepared for consumption on the food provider's premises, using any cooking or food
18 preparation technique. This does not include any raw uncooked meat, fish or eggs unless
19 provided for consumption without further food preparation. “Retail establishment” shall mean
20 any commercial business facility that sells goods directly to the consumer including but not
21 limited to grocery stores, pharmacies, liquor stores, convenience stores, restaurants, retail stores
22 and vendors selling clothing, food, and personal items

23 (b) Except as provided herein, on or after August 1, 2018, food establishments shall be
24 prohibited from dispensing food to customers in disposable food service containers made from
25 expanded polystyrene.

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

28 (d) The department shall promulgate regulations for the enforcement of this section. Said
29 regulations shall establish (i) fines not to exceed one thousand dollars for any single violation
30 and (ii) a process for deferments, in accordance with the following:

31 (1) Upon written application to the health department of the town or city in which it
32 operates, and upon showing by the food establishment that the conditions of this provision would
33 cause undue hardship, the municipal health department or its designee may defer application of
34 this provision for a food establishment for a one year period. An “undue hardship” shall mean a

35 situation unique to the food establishment where there are no reasonable alternatives to the use of
36 expanded polystyrene disposable food service containers and compliance with this provision
37 would cause significant economic hardship to that food establishment.

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

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

46 (4) The municipal health department or its designee may approve the deferment
47 application, in whole or in part, with or without conditions.