

# HOUSE . . . . . No. 859

---

## The Commonwealth of Massachusetts

---

PRESENTED BY:

*David M. Rogers*

---

*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 improve plastic bottles and their recycling.

---

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>1/17/2019</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>	<i>1/30/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/30/2019</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>1/31/2019</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>	<i>1/31/2019</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>2/1/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/1/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/1/2019</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>2/1/2019</i>

# HOUSE . . . . . No. 859

---

By Mr. Rogers of Cambridge, a petition (accompanied by bill, House, No. 859) of David M. Rogers and others relative to the sale of single-use beverage containers and the minimum content standard for plastic beverage containers. Environment, Natural Resources and Agriculture.

---

## The Commonwealth of Massachusetts

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

An Act to improve plastic bottles and their recycling.

*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. The General Laws are hereby amended by inserting after chapter 21O the  
2 following chapter:

3           CHAPTER 21P.

4           IMPROVED PLASTIC BOTTLES AND INCREASED RECYCLING

5           Section 1. Definitions. As used in this chapter, the following words shall have the  
6 following meanings unless the context clearly requires otherwise:

7           A.       “Beverage”, any of the following products prepared for immediate consumption  
8 and sold in a single-use container:

9           i.       Beer and malt beverages; wine distilled spirit coolers; carbonated water and soda;  
10 noncarbonated water; carbonated soft drinks; noncarbonated soft drinks and ‘soft’ drinks; non-  
11 carbonated fruit drinks that contain any percentage of fruit juice and vegetable juice; coffee and

12 tea drinks; carbonated fruit drinks; vegetable and fruit juice, sports drinks, fermented non-  
13 alcoholic drinks;

14 B. “Beverage cap”, a cap on any plastic beverage container that is made wholly or in  
15 large part from plastic;

16 C. “Plastic beverage container”, an individual, separate bottle, can, jar, carton, or  
17 other receptacle, however denominated, in which one liter or less of a beverage is sold, and that  
18 is constructed of plastic. “Beverage container” does not include a cup or other similar container  
19 open or loosely sealed receptacle;

20 D. “The Department” means the Department of Environmental Protection for the  
21 Commonwealth of Massachusetts;

22 E. “Plastic”, an organic or petroleum derivative synthetic or a semisynthetic organic  
23 solid that is moldable, and to which additives or other substances may have been added, with the  
24 exception of natural polymers that have not been chemically modified;

25 F. “Postconsumer recycled plastic” means plastic that would otherwise be destined  
26 for solid waste disposal, having completed its intended end-use and product life cycle;

27 G. “Product manufacturer” means any person, partnership, association, corporation  
28 or any other entity that, through its own action or through contract or control, is primarily  
29 responsible for causing a product to be produced that is held inside of a rigid plastic packaging  
30 container and sold or offered for sale in Massachusetts.

31 i. The Department shall consider the following factors in identifying a product  
32 manufacturer:

1. The ownership of the brand name of the product in the beverage container;
  2. Primary control or influence over the design of the product in the beverage container;
  3. Primary control or influence over the design specifications of the beverage container;
- ii. Any entity that has a legally recognized corporate relationship (i.e. parent/subsidiary or affiliate relationship) with a product manufacturer shall be allowed to assume the responsibilities of the product manufacturer as they relate to the requirements of this Act.
- H. “Retailer” means a person who sells a beverage in a beverage container to a consumer;
- I. “Single use”, means intended for disposal after one use and used for serving or transporting a prepared, ready-to-consume product, and is not intended for multiple trips or rotations by being returned to the producer for refill or reused for the same purpose for which it was conceived.

## Section 2. Prohibition.

- A. On and after January 1, 2020, a retailer shall not sell or offer for sale, in the state, a single-use beverage container with a beverage cap, unless the container meets one of the following conditions:
- i. The beverage cap is tethered to the container in a manner that prevents the separation of the cap from the container when the cap is removed from the container;

ii. The beverage cap includes an opening from which the beverage can be consumed while the cap is screwed onto or otherwise contiguously affixed to the container;

B. Metal caps or lids with plastic seals shall not be considered to be made from plastic. Glass and metal beverage containers that have caps and lids made from plastic shall not be included in this act;

### Section 3. Minimum Recycled Content for Plastic Beverage Containers.

A. On and after January 1, 2020, a beverage container that is constructed from plastic shall have a minimum content standard of 15 percent postconsumer recycled plastic. The department may adjust the standards based on factors that shall include, but are not limited to, all the following factors:

- i. Market conditions;
- ii. Supply;
- iii. Technology advancements;
- iv. Environmental considerations;

B. A beverage container that is reused and refilled at least five times is exempt from compliance with subdivision (A);

C. On and after January 1, 2021, the initial minimum content standard set pursuant to subdivision (A) shall not restrict the department's ability to adjust the minimum content standard for plastic beverage containers, but the department shall not adjust that minimum content standard to less than 15 percent;

D. On and after January 1, 2022, the initial minimum content standard for plastic beverage containers set pursuant to subdivision (A) shall be increased to 20 percent. Pursuant to subdivision (C), the department may adjust the minimum content standard for plastic beverage containers, but the department shall not adjust that minimum content standard to less than 20 percent;

E. On and after January 1, 2024, the initial minimum content standard for plastic beverage containers set pursuant to subdivision (A) shall be increased to 25 percent. Pursuant to subdivision (C), the department may adjust the minimum content standard for plastic beverage containers, but the department shall not adjust that minimum content standard to less than 25 percent;

F. A product manufacturer which produces plastic beverage containers shall submit certification to the Department, under penalty of perjury, verifying whether it is in compliance with subdivision (a), if requested by the Department.

#### Section 4. Enforcement of Minimum Recycled Content for Plastic Beverage Containers.

A. Non-compliance shall be considered a public offense, and the Department may place fines of up to \$100,000 on any product manufacturer found to be below the 15 percent postconsumer recycled content threshold for plastic beverage containers;

B. Any product manufacturer who provides false information on a certification of compliance to the Department may be prosecuted for fraud by the state attorney general.