

HOUSE No. 869

The Commonwealth of Massachusetts

PRESENTED BY:

Michelle L. Ciccolo

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 reduce single-use plastics from the environment.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>2/19/2021</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>2/24/2021</i>
<i>Steven C. Owens</i>	<i>29th Middlesex</i>	<i>2/24/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>2/25/2021</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/25/2021</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>2/25/2021</i>
<i>Joan Meschino</i>	<i>3rd Plymouth</i>	<i>2/25/2021</i>
<i>Sally P. Kerans</i>	<i>13th Essex</i>	<i>2/26/2021</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/26/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/26/2021</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>2/26/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/26/2021</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>2/26/2021</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>2/26/2021</i>
<i>Kathleen R. LaNatra</i>	<i>12th Plymouth</i>	<i>2/26/2021</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>3/8/2021</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>3/14/2021</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>3/16/2021</i>

<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>3/19/2021</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/23/2021</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>3/25/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>5/6/2021</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>5/16/2021</i>
<i>Kate Lipper-Garabedian</i>	<i>32nd Middlesex</i>	<i>5/24/2021</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>7/1/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>7/9/2021</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>7/22/2021</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>7/26/2021</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>10/7/2021</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>4/28/2022</i>

HOUSE No. 869

By Ms. Ciccolo of Lexington, a petition (accompanied by bill, House, No. 869) of Michelle L. Ciccolo and others relative to reducing single-use plastics from the environment. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to reduce single-use plastics from the environment.

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. Prevent Plastic Grocery Bags from Entering the Environment

2 Title II of the General Laws is hereby amended by inserting after chapter 21O the
3 following chapter:

4 CHAPTER 21P: PLASTIC BAG REDUCTION

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

7 “Postconsumer recycled material”, a material that would otherwise be destined for solid
8 waste disposal, having completed its intended end use and product life cycle. Postconsumer
9 recycled material does not include materials and byproducts generated from, and commonly
10 reused within, an original manufacturing and fabrication process.

11 “Recycled paper bag”, a paper bag that is (i) 100 per cent recyclable; (ii) contains a
12 minimum of 40 per cent postconsumer recycled materials, provided, however, that an 8 pound or
13 smaller recycled paper bag shall contain a minimum of 20 per cent postconsumer recycled
14 material; and (iii) displays the words "Recyclable" and "made from 40% post-consumer recycled
15 content" or other applicable amount in a visible manner on the outside of the bag.

16 “Reusable grocery bag”, a sewn bag with stitched handles that is (i) specifically designed
17 and manufactured for at least 175 uses; (ii) can carry 25 pounds over a distance of 300 feet; and
18 (iii) is made of cloth or other machine-washable fabric other than polyethylene or polyvinyl
19 chloride.

20 “Single-use carryout bag”, a bag made of plastic, paper, or other material that is provided
21 by a Retail establishment to a customer at the point of sale and that is not a recycled paper bag or
22 a reusable grocery bag. A single-use carryout bag does not include the following: (i) a paper bag
23 provided by a pharmacy to a customer purchasing a prescription medication; (ii) a non-handled
24 bag used to protect items from damaging or contaminating other purchased items placed in a
25 recycled paper bag, a reusable grocery bag; (iii) a bag provided to contain an unwrapped food
26 item; or (iv) a non-handled bag that is designed to be placed over articles of clothing on a hanger.

27 “Retail establishment”, a store or premises in which a person is engaged in the retail
28 business of selling or providing merchandise, goods, groceries, prepared take-out food and
29 beverages for consumption off-premises or the servicing of an item, directly to customers at such
30 store or premises, including, but not limited to, grocery stores, department stores, pharmacies,
31 convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including
32 farmers markets and public markets; provided, however, that a “retail establishment” shall also

33 include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or moveable
34 roadside stand used by a person from which to engage in such business directly with customers
35 and business establishments without a storefront, including, but not limited to, a business
36 delivering prepared foods or other food items, web-based or catalog business or delivery services
37 used by a retail establishment; provided further, that a “retail establishment” shall include a non-
38 profit organization, charity or religious institution that has a retail establishment and holds itself
39 out to the public as engaging in retail activities that are characteristic of similar type retail
40 businesses, whether or not for profit when engaging in such activity.

41 Section 2. (a) Eighteen months after the enactment of this law, a Retail establishment
42 may only make available for purchase at the point of sale a reusable grocery bag, or recycled
43 paper bag.

44 (b) For up to 180 days from the date of enactment, a Retail establishment may make
45 available for purchase at the point of sale a single-use carryout bag, reusable grocery bag, or
46 recycled paper bag.

47 (c) 180 days after the enactment of this law, a Retail establishment may make available
48 for purchase a recycled paper bag, for a charge of \$0.10.

49 (d) 180 days after the enactment of this law, a Retail establishment may make available
50 for purchase a reusable grocery bag, for a charge of no less than \$0.10.

51 (e) All moneys collected pursuant to this section shall be retained by the Retail
52 establishment.

53 (f) The department of environmental protection shall promulgate regulations with regard
54 to the enforcement of this chapter. The department of environmental protection shall establish a
55 small business exemption process by which a Retail establishment may elect to be exempt from
56 the provisions of subsections (b) through (d) of this section. A Retail establishment electing for
57 said exemption must provide to the department a self-audit attesting that they meet the following
58 criteria:

59 1. the owner of the Retail establishment has 3 or fewer store locations under the
60 same ownership; and

61 2. each Retail establishment has less than 4,000 square feet of retail selling space;
62 and

63 3. each Retail establishment has 15 or fewer employees employed at the store
64 location; and either

65 4. the Retail establishment is not a food establishment as defined by 105 CMR
66 590.001(C); or

67 5. the Retail establishment provided to consumers at the point of sale less than
68 15,000 carry-out bags or checkout bags in total during the previous calendar year.

69 Section 3. Any municipality with an existing ordinance, rule, regulation or by-law
70 banning or regulating single-use carryout bags, recycled paper bags, or reusable grocery bags in
71 the commonwealth shall be null and void 180 days after the enactment of this law. The exclusive
72 authority in regulating the labeling, distribution, sale, storage, transportation, use, and disposal of

73 single-use carryout bags, recycled paper bags, and reusable grocery bags in the commonwealth
74 shall be determined by this chapter.

75 SECTION 2. Reduce Polystyrene in the Environment

76 The General Laws are hereby amended by inserting after chapter 21P the following
77 chapter:

78 Chapter 21Q.

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

81 “Disposable Food Service Ware” shall mean single-use or disposable products for
82 heating, storing, packaging, serving, consuming, or transporting prepared or ready-to-consume
83 food or beverages including, but not limited to, bowls, plates, trays, cartons, cups, lids, hinged or
84 lidded containers, spoons, forks and knives. This includes any containers used by food
85 establishments to heat, cook, or store food or beverages prior to serving, regardless of whether
86 such containers are used to serve such food or beverages. Disposable Food Service Ware also
87 includes any such implements sold by Retail Establishments to consumers for personal use.

88 “Foam Polystyrene” shall mean polystyrene in the form of a foam or expanded material,
89 processed by any number of techniques including, but not limited to, fusion of polymer spheres
90 (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding
91 (extruded foam polystyrene).

92 “Food Establishment” shall mean any operation that serves, vends or otherwise provides
93 food or other products to third-parties for consumption and/or use on or off the premises,

94 whether or not a fee is charged, but not including the service of food within a home or other
95 private setting. Any facility requiring a food permit in accordance with the Massachusetts State
96 Food Code, 105 CMR 590.000, et seq. and/or regulations of the Board of Health shall be
97 considered a “food establishment” for purposes of this bylaw.

98 “Health Agent” shall mean the Health Agent for the city or town of the facility, or his/her
99 designee.

100 “Packing Material” shall mean material used to hold, cushion, or protect items packed in
101 a container for shipping transport or storage.

102 “Prepared Food” shall mean food or beverages, which are serviced, packaged, cooked,
103 chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared (collectively
104 “prepared”) for individual customers or consumers. Prepared Food does not include raw eggs or
105 raw, butchered meats, fish, seafood, and/or poultry.

106 “Polystyrene” shall mean a synthetic polymer produced by polymerization of styrene
107 monomer. Polystyrene includes both “Foam Polystyrene” and “Solid Polystyrene” as defined in
108 this Bylaw. The International Resin Identification Code assigned to polystyrene materials is “6”.
109 Polystyrene items may be identified by a "6" or "PS," either alone or in combination with other
110 letters. The regulations and prohibitions relating to polystyrene in this law are intended to apply
111 regardless of the presence or absence of an International Resin Identification Code or other
112 identifying marks on the item.

113 “Retail Establishment” shall mean a store or premises engaged in the retail business of
114 selling or providing merchandise, goods, groceries, prepared take-out food and beverages for
115 consumption off-premises or the serving of an item directly to customers at such store or

116 premises, including, but not limited to, grocery stores, department stores, pharmacies,
117 convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including
118 farmers markets and public markets; provided, however, that a “retail establishment” shall also
119 include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or moveable
120 roadside stand used by a person from which to engage in such business directly with customers
121 and business establishments without a storefront, including, but not limited to, a business
122 delivering prepared foods or other food items, web-based or catalog business or delivery services
123 used by a retail establishment; provided further, that a “retail establishment” shall include a non-
124 profit organization, charity or religious institution that has a retail establishment and holds itself
125 out to the public as engaging in retail activities that are characteristic of similar type commercial
126 retail businesses, whether or not for profit when engaging in such activity.

127 “Solid Polystyrene” shall mean polystyrene, including clear (oriented) polystyrene,
128 produced in a rigid form with minimal incorporation of air or other gas. Solid polystyrene is also
129 referred to as ‘rigid polystyrene’.

130 Section 2. Regulated Conduct

131 a. One year after passage of this Act, no Food Establishment in the Commonwealth of
132 Massachusetts may use, sell, offer for sale, or otherwise distribute disposable food service ware
133 made from foam polystyrene or solid polystyrene.

134 b. One year after passage of this Act , no Retail Establishment in the Commonwealth of
135 Massachusetts may sell, offer for sale, or otherwise distribute: 1. disposable food service ware
136 made from foam polystyrene or solid polystyrene 2. meat trays, fish trays, seafood trays,
137 vegetable trays, or egg cartons made in whole or in any part with foam polystyrene or solid

138 polystyrene 3. distributing packing materials, including packing peanuts and shipping boxes
139 made in whole or in any part with foam polystyrene that is not wholly encapsulated within a
140 more durable material. 4. coolers, ice chests, or similar containers; pool or beach toys; and dock
141 floats, mooring buoys, or anchor or navigation markers, which are made in whole or in any part
142 with foam polystyrene that is not wholly encapsulated within a more durable material.

143 c. For the purposes of Section 2(b)(3), 'distributing packing material' does not include: 1.
144 Re-using packing materials for shipping, transport, or storage within the same distribution
145 system, where the packing materials are not sent to a customer or end user. 2. Receiving
146 shipments within the Commonwealth that include polystyrene foam used as a packing material,
147 provided that the goods were not packaged or repackaged within the Commonwealth of
148 Massachusetts.

149 Section 3. Exemption

150 a) Nothing in this chapter shall prohibit individuals from using disposable food service
151 ware or other items made of polystyrene purchased outside the Commonwealth of Massachusetts
152 for personal use. b) Prepared food packaged outside the Commonwealth of Massachusetts is
153 exempt from the provisions of this chapter, provided that it is sold or otherwise provided to the
154 consumer in the same disposable food service ware in which it was originally packaged, and that
155 the prepared food has not been altered or repackaged. c) The Commonwealth of Massachusetts
156 Department of Environmental Protection or the Board of Health of the city or town in which the
157 food or retail establishment is located may exempt a food establishment or retail establishment
158 from any provision of this chapter for a period of up to six months upon written application by
159 the owner or operator of that establishment. No exemption will be granted unless the Department

160 of Environmental Protection or the Board of Health finds that (1) strict enforcement of the
161 provision for which the exemption is sought would cause undue hardship; or (2) the food
162 establishment or retail establishment requires additional time in order to draw down an existing
163 inventory of a specific item regulated by this chapter. For purposes of this chapter, “undue
164 hardship” shall mean a situation unique to a food establishment or retail establishment in which
165 there are no reasonable alternatives to the use of materials prohibited by this chapter, and that
166 compliance with this chapter would create significant economic hardship for the Establishment.

167 Section 4. Enforcement

168 Health Agents of the cities and towns of the Commonwealth of Massachusetts shall also
169 have the authority to enforce this chapter. This chapter may be enforced through any lawful
170 means in law or in equity, including but not limited to, noncriminal disposition pursuant to G.L.
171 c. 40 § 21D and Article VI of the General Bylaws. The town or city may enforce this chapter or
172 enjoin violations thereof through any lawful process or combination of processes, and the
173 election of one remedy by the town or city shall not preclude enforcement through any other
174 lawful means.

175 Violations of this chapter are punishable by a fine of up to \$300 per violation. Each
176 successive day of noncompliance will count as a separate violation.

177 If non-criminal disposition is elected, then any Food or Retail Establishment that violates
178 any provision of this chapter shall be subject to the following penalties:

179 First Offense: written warning

180 Second Offense: \$50 penalty

181 Third and each subsequent offense: \$300 penalty

182 Section 5. Regulations

183 The Board of Health may adopt and amend rules and regulations to effectuate the
184 purposes of this chapter.

185 Section 6. Interaction with Other Laws

186 In the case of a conflict between the requirements of this chapter and any other federal,
187 state or local law concerning the materials regulated herein, the more stringent requirements shall
188 apply.

189 Section 7. Severability

190 If any provision of this chapter is declared invalid or unenforceable the other provisions
191 shall not be affected thereby.

192 SECTION 3. Reduce Plastic Straws in the Environment

193 The General Laws are hereby amended by inserting after chapter 21Q the following
194 chapter:

195 Chapter 21R.

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

198 “Disability” shall mean a physical, intellectual, or sensory impairment that substantially
199 limits one or more major life activities.

200 “Disposable plastic straw, stirrer, or splash stick” shall mean a drinking straw, stirrer, or
201 splash stick made predominantly from synthetic polymers and that is not a reusable straw, stirrer,
202 or splash stick. A disposable plastic straw, stirrer, or splash stick shall also include items made in
203 whole or in part from synthetic polymers that are otherwise classified as ‘compostable’,
204 ‘biodegradable’, ‘oxodegradable’, or ‘marine degradable’.

205 “Food Establishment” shall mean any operation that serves, vends or otherwise provides
206 food or other products to third-parties for consumption and/or use on or off the premises,
207 whether or not a fee is charged, but not including the service of food within a home or other
208 private setting. Any facility requiring a food permit in accordance with the Massachusetts State
209 Food Code, 105 CMR 590.000, et seq. and/or regulations of the Board of Health shall be
210 considered a “food establishment” for purposes of this bylaw.

211 “Health Agent” shall mean the Health Agent for the city or town of the facility or his/her
212 designee.

213 “Medical Condition” shall mean any illness, disease, or injury that requires medical
214 treatment.

215 “Reusable straw, stirrer, or splash stick” shall mean a drinking straw, stirrer, or splash
216 stick that is manufactured from durable materials, and is designed to be adequately and
217 repeatedly cleaned and sanitized for reuse.

218 “Retail Establishment” shall mean a store or premises engaged in the retail business of
219 selling or providing merchandise, goods, groceries, prepared take-out food and beverages for
220 consumption off-premises or the serving of an item, directly to customers at such store or
221 premises, including, but not limited to, grocery stores, department stores, clothing stores,

222 pharmacies, convenience stores, restaurants, coffee shops and seasonal and temporary
223 businesses, including farmers markets and public markets; provided, however, that a “retail
224 establishment” shall also include a food truck or other motor vehicle, mobile canteen, trailer,
225 market pushcart or moveable roadside stand used by a person from which to engage in such
226 business directly with customers and business establishments without a storefront, including, but
227 not limited to, a business delivering prepared foods or other food items, web-based or catalog
228 business or delivery services used by a retail establishment; provided further, that a “retail
229 establishment” shall include a non-profit organization, charity or religious institution that has a
230 retail establishment and holds itself out to the public as engaging in retail activities that are
231 characteristic of similar type commercial retail businesses, whether or not for profit when
232 engaging in such activity.

233 Section 2. Regulated Conduct

234 a. One year after passage of this Act, no food establishment in the Commonwealth of
235 Massachusetts may provide a disposable plastic straw, stirrer, or splash stick, as such term is
236 defined in this chapter, to a customer.

237 b. One year after passage of this Act , no food establishment in the Commonwealth of
238 Massachusetts may provide a disposable straw, stirrer, or splash stick that is not a reusable straw,
239 stirrer, or splash stick to a customer, except upon that customer’s specific request for such items
240 or if the item is selected by a customer from a self-service dispenser.

241 c. One year after passage of this Act , retail establishments in the Commonwealth of
242 Massachusetts are prohibited from selling or distributing disposable plastic straws, stirrers, or
243 splash sticks to customers unless equivalent non-plastic or reusable straws, stirrers, or splash

244 sticks are available for sale and are clearly labeled such that any customer can easily distinguish
245 among the disposable plastic, disposable non-plastic, and reusable items.

246 Section 3. Exemptions

247 a. Nothing in this bylaw shall prohibit individuals from bringing and using their own
248 personal straws, stirrers, or splash sticks of any type for personal use in a food establishment. b.
249 Food establishments may provide a disposable plastic straw, stirrer, or splash stick, upon request,
250 to a person in need due to a disability or medical condition. c. The Department of Environmental
251 Protections or the Board of Health or health agent of the city or town in which the establishment
252 is located may exempt a food establishment or retail establishment from any provision of this
253 chapter for a period of up to six months upon written application by the owner or operator of that
254 establishment. No exemption will be granted unless the Department or the Board of Health or
255 health agent finds that the establishment requires additional time in order to draw down an
256 existing inventory of a specific item regulated by this chapter.

257 Section 4. Enforcement

258 Health Agents shall have the authority to enforce this bylaw. This bylaw may be enforced
259 through any lawful means in law or in equity, including but not limited to, noncriminal
260 disposition pursuant to G.L. c. 40 § 21D and Article VI of the General Bylaws. The city or town
261 may enforce this chapter or enjoin violations thereof through any lawful process or combination
262 of processes, and the election of one remedy by the city or town shall not preclude enforcement
263 through any other lawful means.

264 Violations of this bylaw are punishable by a fine of up to \$300 per violation. Each
265 successive day of noncompliance will count as a separate violation.

266 If non-criminal disposition is elected, then any Food Establishment or Retail
267 Establishment that violates any provision of this bylaw shall be subject to the following
268 penalties:

269 First Offense: Written Warning

270 Second Offense: \$50 penalty

271 Third and each subsequent offense: \$300 penalty

272 Section 5. Regulations

273 The Board of Health may adopt and amend rules and regulations to effectuate the
274 purposes of this chapter.

275 Section 6. Interaction with Other Laws

276 In the case of a conflict between the requirements of this chapter and any other federal,
277 state or local law concerning the materials regulated herein, the more stringent requirements shall
278 apply.

279 Section 7. Severability

280 If any provision of this chapter is declared invalid or unenforceable the other provisions
281 shall not be affected thereby.

282 SECTION 4. To Prevent the Release of Helium Balloons into the Environment

283 Chapter 131 of the General Laws, as appearing in the 2016 official edition, is hereby
284 amended by adding the following new section:

285 Section 119. The sale, distribution and release of any type of balloon, including, but not
286 limited to, plastic or latex, filled with any type of lighter than air gas, both for public or private
287 use, is hereby prohibited. Whoever violates any provision of this section shall be punished by a
288 fine of not more than one hundred dollars.

289 The provisions of this section shall not apply to (i) balloons released by or on behalf of
290 any agency of the commonwealth or the United States for scientific or meteorological purposes,
291 or (ii) hot air balloons that are recovered after launch.

292 SECTION 5. To Prevent the Release of Nips into the Environment

293 One year after passage of this Act, the sale of alcoholic beverages in containers less than
294 or equal to 100 milliliters is prohibited within the Commonwealth of Massachusetts.

295 SECTION 6. To Prevent the Release of Wipes Containing Plastic into the Environment

296 Section 1. For purposes of this section, the following definition shall apply:

297 “Plastic Wipe”, a nonwoven disposable product manufactured and sold in this state or
298 brought into the state for sale that is constructed from plastic resin (including, but not limited to,
299 polyester and polypropylene) nonwoven sheets, including moist toilet tissue or cloth, that is
300 designed, marketed to or commonly used by the general public for personal hygiene or cleaning
301 purposes, including, but not limited to, diaper wipes, toilet wipes, household cleaning wipes,
302 personal care wipes and facial wipes.

303 Section 2. No retailer shall sell or distribute plastic wet wipes other than those used for
304 medical applications.

305 Section 3. This law shall not affect prescription products.

306 SECTION 7. To Prevent the Release of Hotel Toiletry Bottles into the Environment

307 Section 1. (a) For purposes of this section, the following definitions shall apply:

308 (1) “Hosted rental” means a house, apartment, or other livable space where the person
309 providing sleeping accommodations is a permanent resident who lives on the premises.

310 (2) “Lodging establishment” means an establishment that contains one or more sleeping
311 room accommodations that are rented or otherwise provided to the public, including, but not
312 limited to, a hotel, motel, resort, bed and breakfast inn, or vacation rental. “Lodging
313 establishment” does not include a hospital, nursing home, residential retirement community,
314 prison, jail, homeless shelter, boarding school, worker housing, long-term rental, or hosted
315 rental.

316 (3) “Personal care product” means a product intended to be applied to or used on the
317 human body in the shower, bath, or any part thereof and shall include only shampoo, hair
318 conditioner, and bath soap.

319 (4) “Plastic” means any synthetic material made from organic polymers, such as
320 polyethylene, polyvinyl chloride (PVC), or nylon, that can be molded into shape while soft and
321 then set into a rigid or slightly elastic form. “Plastic” includes all materials identified with resin
322 codes 1 to 7, inclusive.

323 (5) “Small plastic bottle” means a plastic bottle or container with less than a 6-ounce
324 capacity that is intended to be nonreusable by the end user.

325 (b) Commencing January 1, 2023, for lodging establishments with more than 50 rooms,
326 and January 1, 2024, for lodging establishments with 50 rooms or less, a lodging establishment

327 shall not provide a small plastic bottle containing a personal care product to a person staying in a
328 sleeping room accommodation, in any space within the sleeping room accommodation, or within
329 bathrooms shared by the public or guests.

330 (c) A lodging establishment is encouraged to use bulk dispensers of personal care
331 products to reduce plastic waste and lower operating costs, mindful of the health and safety of a
332 person.

333 (d) A lodging establishment may provide personal care products in small plastic bottles to
334 a person at no cost, upon request, at a place other than a sleeping room accommodation, a space
335 within the sleeping room accommodation, or within bathrooms shared by the public or guests.

336 (e) A local agency with authority to inspect sleeping accommodations in a lodging
337 establishment may issue a citation for a violation of subdivision (b). Upon a first violation, the
338 local Board of Health shall issue a written warning, which shall recite the violation and advise
339 that subsequent violations may result in citations. Upon a second or subsequent violation, the
340 local agency may impose a penalty of five hundred dollars (\$500) for each day the lodging
341 establishment is in violation, but not to exceed two thousand dollars (\$2,000) annually.

342 (f) A lodging establishment in violation of subdivision (b) is liable for a civil penalty of
343 five hundred dollars (\$500) for the first violation and two thousand dollars (\$2,000) for a second
344 or subsequent violation.

345 (g) (1) On and after January 1, 2022, a city, county, or city and county shall not pass or
346 enforce an ordinance, resolution, regulation, or rule relating to personal care products in plastic
347 bottles provided at lodging establishments, except as provided in paragraph (2).

348 Section 2. A city, county, or city and county that, before January 1, 2022, passed an
349 ordinance, resolution, regulation, or rule relating to personal care products in plastic bottles
350 provided at lodging establishments may enforce that ordinance, resolution, regulation, or rule, if
351 it is at least as stringent as, and not in conflict with, this section.

352 SECTION 8. To Prevent the Release of Plastic Water Bottles Into the Environment

353 Section 1. (a) For purposes of this section, the following definitions shall apply:

354 "Single-serve plastic container" means a container with a volume of 1 liter or less made
355 in whole or in part of plastic resin codes 1 through 6 (excluding the label or cap).

356 "Bottled Water" means non-sparkling, unflavored drinking water.

357 Section 2. Restrictions

358 No retailer shall sell or distribute any bottled water in a single-serve plastic container
359 other than nutritive drinks, tea, coffee, or unflavored carbonated water.

360 Section 3. Exclusions

361 Sales or distribution of drinking water in plastic bottles occurring subsequent to a
362 declaration by a duly authorized Town, state or Federal official of an emergency affecting the
363 availability and/or quality of drinking water to residents of the Town shall be exempt from this
364 bylaw until seven days after the declaration has ended.

365 Section 4. Effective Date

366 The provisions of this law shall take effect one year after passage of this Act.

367 SECTION 9. To Prevent the Release of Black Plastic into the Environment

368 The General Laws are hereby amended by inserting after chapter 21R the following
369 chapter:

370 Chapter 21S.

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

373 “Disposable Food Service Ware” shall mean single-use or disposable products for
374 heating, storing, packaging, serving, consuming, or transporting prepared or ready-to-consume
375 food or beverages including, but not limited to, bowls, plates, trays, cartons, cups, lids, hinged or
376 lidded containers, spoons, forks and knives. This includes any containers used by food
377 establishments to heat, cook, or store food or beverages prior to serving, regardless of whether
378 such containers are used to serve such food or beverages. Disposable Food Service Ware also
379 includes any such implements sold by Retail Establishments to consumers for personal use.

380 “Black Plastic” shall mean any plastic with any plastic resin codes #1-#7.

381 “Food Establishment” shall mean any operation that serves, vends or otherwise provides
382 food or other products to third-parties for consumption and/or use on or off the premises,
383 whether or not a fee is charged, but not including the service of food within a home or other
384 private setting. Any facility requiring a food permit in accordance with the Massachusetts State
385 Food Code, 105 CMR 590.000, et seq. and/or regulations of the Board of Health shall be
386 considered a “food establishment” for purposes of this bylaw.

387 “Health Agent” shall mean the Health Agent for the city or town of the facility or his/her
388 designee.

389 “Prepared Food” shall mean food or beverages, which are serviced, packaged, cooked,
390 chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared (collectively
391 “prepared”) for individual customers or consumers. Prepared Food does not include raw eggs or
392 raw, butchered meats, fish, seafood, and/or poultry.

393 “Retail Establishment” shall mean a store or premises engaged in the retail business of
394 selling or providing merchandise, goods, groceries, prepared take-out food and beverages for
395 consumption off-premises or the serving of an item directly to customers at such store or
396 premises, including, but not limited to, grocery stores, department stores, pharmacies,
397 convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including
398 farmers markets and public markets; provided, however, that a “retail establishment” shall also
399 include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or moveable
400 roadside stand used by a person from which to engage in such business directly with customers
401 and business establishments without a storefront, including, but not limited to, a business
402 delivering prepared foods or other food items, web-based or catalog business or delivery services
403 used by a retail establishment; provided further, that a “retail establishment” shall include a non-
404 profit organization, charity or religious institution that has a retail establishment and holds itself
405 out to the public as engaging in retail activities that are characteristic of similar type commercial
406 retail businesses, whether or not for profit when engaging in such activity.

407 Section 2. Regulated Conduct

408 a. One year after passage of this Act, no Food Establishment in the Commonwealth of
409 Massachusetts may use, sell, offer for sale, or otherwise distribute disposable food service ware
410 made from black plastic.

411 b. One year after passage of this Act, no Retail Establishment in the Commonwealth of
412 Massachusetts may sell, offer for sale, or otherwise distribute: 1. disposable food service ware
413 made from black plastic. 2. meat trays, fish trays, seafood trays, vegetable trays, or egg cartons
414 made in whole or in any part with black plastic.

415 Section 3. Exemption

416 a) Nothing in this chapter shall prohibit individuals from using disposable food service
417 ware or other items made of black plastic purchased outside the Commonwealth of
418 Massachusetts for personal use. b) Prepared food packaged outside the Commonwealth of
419 Massachusetts is exempt from the provisions of this chapter, provided that it is sold or otherwise
420 provided to the consumer in the same disposable food service ware in which it was originally
421 packaged, and that the prepared food has not been altered or repackaged. c) The Commonwealth
422 of Massachusetts Department of Environmental Protection or the Board of Health of the city or
423 town in which the food or retail establishment is located may exempt a food establishment or
424 retail establishment from any provision of this chapter for a period of up to six months upon
425 written application by the owner or operator of that establishment. No exemption will be granted
426 unless the Department of Environmental Protection or the Board of Health finds that (1) strict
427 enforcement of the provision for which the exemption is sought would cause undue hardship; or
428 (2) the food establishment or retail establishment requires additional time in order to draw down
429 an existing inventory of a specific item regulated by this chapter. For purposes of this chapter,

430 “undue hardship” shall mean a situation unique to a food establishment or retail establishment in
431 which there are no reasonable alternatives to the use of materials prohibited by this chapter, and
432 that compliance with this chapter would create significant economic hardship for the
433 Establishment.

434 Section 4. Enforcement

435 Health Agents of the cities and towns of the Commonwealth of Massachusetts shall also
436 have the authority to enforce this chapter. This chapter may be enforced through any lawful
437 means in law or in equity, including but not limited to, noncriminal disposition pursuant to G.L.
438 c. 40 § 21D and Article VI of the General Bylaws. The town or city may enforce this chapter or
439 enjoin violations thereof through any lawful process or combination of processes, and the
440 election of one remedy by the town or city shall not preclude enforcement through any other
441 lawful means.

442 Violations of this chapter are punishable by a fine of up to \$300 per violation. Each
443 successive day of noncompliance will count as a separate violation.

444 If non-criminal disposition is elected, then any Food or Retail Establishment that violates
445 any provision of this chapter shall be subject to the following penalties:

446 First Offense: written warning

447 Second Offense: \$50 penalty

448 Third and each subsequent offense: \$300 penalty

449 Section 5. Regulations

450 The Board of Health may adopt and amend rules and regulations to effectuate the
451 purposes of this chapter.

452 Section 6. Interaction with Other Laws

453 In the case of a conflict between the requirements of this chapter and any other federal,
454 state or local law concerning the materials regulated herein, the more stringent requirements shall
455 apply.

456 Section 7. Severability

457 If any provision of this chapter is declared invalid or unenforceable the other provisions
458 shall not be affected thereby.

459 SECTION 10. To Support Our Restaurants

460 Section 1. For purposes of this chapter, the following terms have the following
461 definitions:

462 (a) “Disposable”, means designed to be discarded after a single or limited number of uses
463 and not designed or manufactured for long-term multiple reuse.

464 (b) “Food service ware accessories”, include food service ware such as straws, stirrers,
465 cup spill plugs, cup sleeves, condiments and condiment packets, utensils (including chopsticks),
466 cocktail sticks/picks, toothpicks, napkins, and other similar accessory or accompanying food
467 service ware used as part of food or beverage service or packaging. Detachable lids for beverage
468 cups and food containers are not considered a food service ware accessory.

469 (c) “Food facility”, means an operation that stores, prepares, packages, serves, vends, or
470 otherwise provides food to the public for human consumption.

471 (d) “Takeout food”, means prepared food requiring no further preparation, which is
472 purchased to be consumed off a prepared food facility’s premises. Takeout food includes
473 prepared food delivered by a food facility or by a third-party takeout food delivery service.

474 (e) “Takeout food delivery service”, is a service that delivers takeout food from a food
475 facility to a customer for consumption off the premises. This service can be provided directly by
476 the food facility or by a third party.

477 Section 2.

478 (a) No food facility shall provide any disposable food service ware accessories except:

- 479 1. Upon request by the consumer;
- 480 2. Upon acceptance by the consumer after being offered by the food facility; or
- 481 3. At a self-serve area and/or a dispenser.

482 (b) Food facilities shall only distribute disposable food service ware if they charge the
483 customer what that food ware cost the food facility, or a dollar, whichever is greater.

484 (c) Takeout food delivery services that utilize digital ordering/point of sale platforms,
485 including but not limited to the internet and smartphones, shall only offer disposable food service
486 ware accessories by providing clear options for customers to affirmatively request these items
487 separate from orders for food and beverages. The default option on the digital ordering/point of
488 sale platforms shall be that no disposable food service ware accessories are requested. Each

489 individual disposable food service ware accessory (e.g., each fork, knife, condiment packet,
490 napkin, etc.) provided with prepared food must be specifically requested by the customer in order
491 for a food facility to provide it.

492 (d) Takeout food delivery services shall only distribute disposable food service ware if
493 they charge the customer what that food ware cost the food facility, or a dollar, whichever is
494 greater.

495 SECTION 11. The provisions of this bill shall take effect one year after passage unless
496 otherwise specified.