

SENATE No. 579

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

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:	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/1/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/8/2021</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>5/10/2021</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>6/2/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>7/13/2021</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>7/13/2021</i>

SENATE No. 579

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 579) of Jason M. Lewis, Joanne M. Comerford and James B. Eldridge for legislation to reduce 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 same
60 ownership; and

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

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

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

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

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

74 SECTION 2. Reduce Polystyrene in the Environment

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

77 Chapter 21Q.

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

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

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

91 “Food Establishment” shall mean any operation that serves, vends or otherwise provides
92 food or other products to third-parties for consumption and/or use on or off the premises,
93 whether or not a fee is charged, but not including the service of food within a home or other
94 private setting. Any facility requiring a food permit in accordance with the Massachusetts State

95 Food Code, 105 CMR 590.000, et seq. and/or regulations of the Board of Health shall be
96 considered a “food establishment” for purposes of this bylaw.

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

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

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

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

112 “Retail Establishment” shall mean a store or premises engaged in the retail business of
113 selling or providing merchandise, goods, groceries, prepared take-out food and beverages for
114 consumption off-premises or the serving of an item directly to customers at such store or
115 premises, including, but not limited to, grocery stores, department stores, pharmacies,
116 convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including

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

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

129 Section 2. Regulated Conduct

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

133 b. One year after passage of this Act, no Retail Establishment in the Commonwealth of
134 Massachusetts may sell, offer for sale, or otherwise distribute: 1. disposable food service ware
135 made from foam polystyrene or solid polystyrene 2. meat trays, fish trays, seafood trays,
136 vegetable trays, or egg cartons made in whole or in any part with foam polystyrene or solid
137 polystyrene 3. distributing packing materials, including packing peanuts and shipping boxes
138 made in whole or in any part with foam polystyrene that is not wholly encapsulated within a

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

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

148 Section 3. Exemption

149 a) Nothing in this chapter shall prohibit individuals from using disposable food service
150 ware or other items made of polystyrene purchased outside the Commonwealth of Massachusetts
151 for personal use. b) Prepared food packaged outside the Commonwealth of Massachusetts is
152 exempt from the provisions of this chapter, provided that it is sold or otherwise provided to the
153 consumer in the same disposable food service ware in which it was originally packaged, and that
154 the prepared food has not been altered or repackaged. c) The Commonwealth of Massachusetts
155 Department of Environmental Protection or the Board of Health of the city or town in which the
156 food or retail establishment is located may exempt a food establishment or retail establishment
157 from any provision of this chapter for a period of up to six months upon written application by
158 the owner or operator of that establishment. No exemption will be granted unless the Department
159 of Environmental Protection or the Board of Health finds that (1) strict enforcement of the
160 provision for which the exemption is sought would cause undue hardship; or (2) the food

161 establishment or retail establishment requires additional time in order to draw down an existing
162 inventory of a specific item regulated by this chapter. For purposes of this chapter, “undue
163 hardship” shall mean a situation unique to a food establishment or retail establishment in which
164 there are no reasonable alternatives to the use of materials prohibited by this chapter, and that
165 compliance with this chapter would create significant economic hardship for the Establishment.

166 Section 4. Enforcement

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

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

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

178 First Offense: written warning

179 Second Offense: \$50 penalty

180 Third and each subsequent offense: \$300 penalty

181 Section 5. Regulations

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

184 Section 6. Interaction with Other Laws

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

188 Section 7. Severability

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

191 SECTION 3. Reduce Plastic Straws in the Environment

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

194 Chapter 21R.

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

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

199 “Disposable plastic straw, stirrer, or splash stick” shall mean a drinking straw, stirrer, or
200 splash stick made predominantly from synthetic polymers and that is not a reusable straw, stirrer,
201 or splash stick. A disposable plastic straw, stirrer, or splash stick shall also include items made in

202 whole or in part from synthetic polymers that are otherwise classified as ‘compostable’,
203 ‘biodegradable’, ‘oxodegradable’, or ‘marine degradable’.

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

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

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

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

217 “Retail Establishment” shall mean a store or premises engaged in the retail business of
218 selling or providing merchandise, goods, groceries, prepared take-out food and beverages for
219 consumption off-premises or the serving of an item, directly to customers at such store or
220 premises, including, but not limited to, grocery stores, department stores, clothing stores,
221 pharmacies, convenience stores, restaurants, coffee shops and seasonal and temporary
222 businesses, including farmers markets and public markets; provided, however, that a “retail
223 establishment” shall also include a food truck or other motor vehicle, mobile canteen, trailer,

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

232 Section 2. Regulated Conduct

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

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

240 c. One year after passage of this Act, retail establishments in the Commonwealth of
241 Massachusetts are prohibited from selling or distributing disposable plastic straws, stirrers, or
242 splash sticks to customers unless equivalent non-plastic or reusable straws, stirrers, or splash
243 sticks are available for sale and are clearly labeled such that any customer can easily distinguish
244 among the disposable plastic, disposable non-plastic, and reusable items.

245 Section 3. Exemptions

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

256 Section 4. Enforcement

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

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

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

268 First Offense: Written Warning

269 Second Offense: \$50 penalty

270 Third and each subsequent offense: \$300 penalty

271 Section 5. Regulations

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

274 Section 6. Interaction with Other Laws

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

278 Section 7. Severability

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

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

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

284 Section 119. The sale, distribution and release of any type of balloon, including, but not
285 limited to, plastic or latex, filled with any type of lighter than air gas, both for public or private

286 use, is hereby prohibited. Whoever violates any provision of this section shall be punished by a
287 fine of not more than one hundred dollars.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

324 (b) Commencing January 1, 2023, for lodging establishments with more than 50 rooms,
325 and January 1, 2024, for lodging establishments with 50 rooms or less, a lodging establishment
326 shall not provide a small plastic bottle containing a personal care product to a person staying in a

327 sleeping room accommodation, in any space within the sleeping room accommodation, or within
328 bathrooms shared by the public or guests.

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

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

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

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

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

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

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

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

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

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

356 Section 2 - Restrictions

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

359 Section 3 - Exclusions

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

364 SECTION 4 - Effective Date

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

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

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

369 Chapter 21S.

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

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

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

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

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

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

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

406 Section 2. Regulated Conduct

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

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

414 Section 3. Exemption

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

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

433 Section 4. Enforcement

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

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

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

445 First Offense: written warning

446 Second Offense: \$50 penalty

447 Third and each subsequent offense: \$300 penalty

448 Section 5. Regulations

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

451 Section 6. Interaction with Other Laws

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

455 Section 7. Severability

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

458 SECTION 10. To Support Our Restaurants

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

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

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

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

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

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

476 Section 2.

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

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

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

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

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

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

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