

HOUSE No. 913

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 create fees for single use beverage containers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>1/16/2025</i>

HOUSE No. 913

By Representative Ciccolo of Lexington, a petition (accompanied by bill, House, No. 913) of Michelle L. Ciccolo relative to fees for single use beverage containers. Environment and Natural Resources.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act to create fees for single use beverage containers.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

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

3 Chapter 21P

4 Whereas, in the Commonwealth of Massachusetts, food and beverage packaging
5 comprise most street litter and are significant contributors to the total amount of waste entering
6 the waste stream, and local governments in the U.S. spend \$11.5 billion annually cleaning up
7 litter, and all disposable food-ware is non-recyclable, and many types of disposable food-ware
8 are not accepted in commercial compost facilities because they cause contamination and lower
9 the quality and value of compost, and food packaging materials, including food contact papers
10 and compostable paperboard- containers and molded plastics, frequently contain harmful poly
11 and perfluoroalkyl chemicals that are linked to serious health impacts, and many of the chemical
12 additives used in packaging are known to migrate into food and beverages. Hundreds of common

13 packaging chemicals are known to be hazardous to human health and in the environment, many
14 are extremely persistent and bioaccumulative, therefore the Commonwealth of Massachusetts
15 sets forward this act to reduce restaurant packaging waste.

16 Section 1: Definitions

17 In this act, these words are defined as follows:

18 a. “Commissioner” means the commissioner of the Department of Environmental
19 Protection.

20 b. “Consumer” means a person purchasing food.

21 c. “Consumption on the Premises” means the consumption of the food or beverage within
22 the physical structure owned and operated by the restaurant.

23 d. “The Commonwealth” means the Commonwealth of Massachusetts.

24 e. “Department” means the Department of Environmental Protection.

25 f. “Food Service Provider” means any store, establishment, provider, government entity,
26 non-profit vendor or business operating within the Commonwealth that sells or provides food or
27 beverages for human consumption to consumers directly or indirectly through a delivery or
28 takeout service, regardless of whether such food is consumed on or off the premises. “Food
29 service provider” includes, but is not limited to, restaurants, retail food establishments, caterers,
30 cafeterias, stores, shops, retail sales outlets, grocery stores, delicatessens serving the public,
31 mobile or temporary food providers, vehicles or carts, or roadside stands.

32 g. “Full-Service Restaurant” means an establishment or business where food may be
33 consumed on the premises, and where each of the following would typically occur when a
34 customer consumes food on the premises:

35 (1) The customer is escorted or directed to an assigned eating area either by an employee
36 of the restaurant or by the customer themselves (2) Except for food that is included in a buffet or
37 salad bar, the customer’s food and beverage order are delivered directly to the customer; and (3)
38 If a customer wants additional items with the customer’s food or beverage order, the customer
39 requests such items from a server or waitstaff.

40 h. “Prepared Food” means food that is serviced, cooked, packaged, or otherwise prepared
41 for individual customers or consumers. Prepared Food does not include raw eggs or raw,
42 butchered meats, fish, raw vegetables, fruit, and/or poultry sold from a butcher case, a
43 refrigerator case, or similar retail appliance.

44 i. “Reusable containers” means plates, bowls, dishes, or other vessels that are designed
45 and manufactured to maintain their shape and structure, and be materially durable for repeated
46 sanitizing, washing, and reuse for a minimum of 50 cycles. Reusable containers may be provided
47 by either the consumer or the food service provider.

48 j. “Single-Use Container” means plates, bowls, dishes or other containers as determined
49 by the Department that are designed for single-use and then discarded or recycled.

50 k. “Single-Use” means a product that is designed to be used once and then discarded, and
51 not designed for repeated use and sanitizing.

52 1. “Third-Party Food Delivery Platform” means a business engaged in the service of
53 online food ordering and/or delivery of food or beverages from a food service provider to a
54 consumer.

55 Section 2: Re-establishing the environmental fund

56 Chapter 94 of the General Laws, as so appearing, is hereby amended by inserting after
57 section 323E the following section:-

58 Section 323G. (a) There shall be established on the books of the commonwealth a
59 separate fund to be known as the Clean Environment Fund. Amounts deposited in said fund shall
60 be used, subject to appropriation, solely for programs and projects in the management of solid
61 waste, environmental protection, and climate change mitigation; provided, however, that no
62 funds shall be used for costs associated with incineration.

63 (b) Not less than forty percent of amounts deposited in the Fund shall be used for
64 recycling, composting and solid waste source reduction projects and programs, including reuse
65 and refill.

66 (c) Not less than an additional ten percent of amounts deposited in the Fund shall be used
67 for recycling and other solid waste projects and programs.

68 (d) Not more than fifty percent of amounts deposited in the fund shall be used for other
69 environmental programs consistent with the purposes of the “bottle bill” so-called including
70 department administration and enforcement and further including the provision of clean water
71 and sewer and improvements to storm water management.

72 Section 3: Beverage Containers Provided on Request

73 a. Food service providers and full-service restaurants must permit and offer customers the
74 option of utilizing reusable beverage containers, provided the reusable beverage container
75 complies with the retail food code established in 105 CMR 590.

76 b. Should a customer not purchase, provide or agree to use a reusable beverage container
77 the restaurant shall charge a \$0.01 fee per transaction for each disposable beverage container
78 used. 100 percent of this fee shall be paid to the Clean Environment Fund as established in
79 section 2 through mechanisms determined by the department of revenue,.

80 c. Containers provided by the consumer must be clean. Restaurants and Food service
81 providers retain the right to refuse to use a customer's provided beverage container if there is a
82 reasonable belief that utilizing this container would violate the retail food code (105 CMR 590).

83 d. Food service providers may ask a drive-through consumer if the consumer wants
84 single-use beverage containers if the single-use beverage containers are necessary for the
85 consumer to safely consume or transport said beverage.

86 e. A food service provider that is located entirely within a public use airport, as defined in
87 Section 77.3 of Title 14 of the Code of Federal Regulations, may ask a walk-through consumer if
88 the consumer wants a single-use food beverage container if the single use beverage container is
89 necessary for the consumer to safely consume or transport said beverage.

90 f. Nothing in this section shall be construed to prohibit a food service provider from
91 selling or providing food or beverages that are pre-packaged by the manufacturer in single-use
92 food or beverage serviceware.

93 Section 4: Enforcement and Compliance

94 a. The Department is required to promulgate rules and regulations for the implementation
95 and enforcement of this act.

96 b. The Department is required to take actions reasonable and necessary to enforce this
97 article, including, but not limited to, receiving, and responding to complaints, investigating
98 violations, issuing fines, and entering the premises of any food service provider during business
99 hours to monitor compliance.

100 c. A food service provider shall be subject to the following:

101 (1) A written notice for a first violation

102 (2) An administrative fine not to exceed \$50 for a second violation.

103 (3) An administrative fine of at least \$150 for each subsequent violation.

104 d. Each administrative fine shall be due and payable to the Department within 30
105 calendar days from the date the written notice of violation is served. Failure to timely pay the
106 fine will result in the assessment of a late fee. The Department may collect any unpaid fine,
107 including the late fee, by means of civil action, injunctive relief, and specific performance in
108 accordance with applicable law.

109 e. All fines and late fees collected under this act shall be used by the Department as part
110 of the Reduce, Reuse, Repair Micro-Grant program.

111 f. A food service provider who receives a written notice of violation pursuant to this
112 article may request an administrative review of the accuracy of the violation determination by
113 filing a signed, written notice of appeal with the Department, no later than 30 days from the date
114 the notice of violation was served. The appeal must include all facts supporting the appeal and

115 any supporting documentation, including copies of all photos, statements, and other documents
116 that the appellant wishes to be considered in connection with the appeal. The Department may
117 sustain, rescind, or modify the notice of violation and/or administrative fine, as applicable.

118 Section 5: Prohibition on Permitting of New Full-Service Restaurant that Do Not Provide
119 Reusable Food Serviceware

120 a. New business licenses for full-service restaurants applied for after the effective date of
121 this act shall only be granted if the applicant can demonstrate that, for all on-premise dining, the
122 applicant will only serve food or beverages using reusable food serviceware, except that the
123 applicant may still provide single-use paper food wrappers, foil wrappers, napkins, straws,
124 compostable paper-tray- and plate-liners. b. Nothing in this section is intended to prevent a full-
125 service restaurant from providing single-use food serviceware or single-use condiments to
126 customers with take-out food, or as a container for customers to transport uneaten food, if such
127 single-use food serviceware or single-use condiments otherwise comply with the requirements of
128 this Chapter.

129 Section 6: Education and Outreach

130 a. The Department is required to conduct education and outreach to consumers, food
131 service providers, and third-party food delivery platforms regarding the requirements and
132 purpose of the law.

133 b. The education and outreach shall, at a minimum, include:

134 (1) Information regarding the environmental and public health harms associated with
135 single-use food serviceware;

136 (2) The environmental, economic, and social benefits of reusable food serviceware;

137 (3) Information regarding the environmental and public health concerns associated with
138 landfilling and incinerating waste;

139 (4) The requirements of this act; and

140 (5) How food service providers and third-party delivery platforms can comply with the
141 requirements of this act and the penalties for non-compliance;

142 c. The education and outreach conducted by the Department shall utilize multiple forms
143 of media, including, but not limited to print and web-based media to produce information
144 directly to consumers, food service providers, and third-party food delivery platforms, and shall
145 be provided in multiple languages.

146 d. The Department of Public Health is responsible for educating full-service restaurants
147 about the environmental benefits of reusable food serviceware, as well as the requirements of
148 section 5 of this act.

149 Section 7: Severability

150 a. If any provision of this article is found to be unconstitutional or otherwise invalid by
151 any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of
152 this article which can be implemented without the invalid provisions, and to this end, the
153 provisions of this article are declared to be severable.

154 Section 8: Preemption

155 a. Nothing in this act shall limit the ability of any city or county within the jurisdiction of
156 the Commonwealth of Massachusetts from passing more restricting laws, ordinances, or
157 regulations, governing the use of single-use food serviceware or single-use condiments, so long
158 as those laws, ordinances, or regulations do not violate the provisions of this act.

159 Section 9: Effective Date

160 a. Section 6 of this act shall take effect immediately upon enactment.

161 b. Section 5 of this act shall take effect one year after enactment.

162 c. The remainder of the act shall take effect one year after enactment.