

HOUSE No.

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 prevent the release of black plastic into the environment.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>1/10/2025</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

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

An Act to prevent the release of black plastic into 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: The General Laws are hereby amended by inserting after chapter 21O the
2 following chapter:

3 Chapter 21P

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

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

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

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

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

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

26 “Retail Establishment” shall mean a store or premises engaged in the retail business of
27 selling or providing merchandise, goods, groceries, prepared take-out food and beverages for
28 consumption off-premises or the serving of an item directly to customers at such store or
29 premises, including, but not limited to, grocery stores, department stores, pharmacies,
30 convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including
31 farmers markets and public markets; provided, however, that a “retail establishment” shall also
32 include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or moveable
33 roadside stand used by a person from which to engage in such business directly with customers
34 and business establishments without a storefront, including, but not limited to, a business

35 delivering prepared foods or other food items, web-based or catalog business or delivery services
36 used by a retail establishment; provided further, that a “retail establishment” shall include a non-
37 profit organization, charity or religious institution that has a retail establishment and holds itself
38 out to the public as engaging in retail activities that are characteristic of similar type commercial
39 retail businesses, whether or not for profit when engaging in such activity.

40 Section 2. Regulated Conduct

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

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

48 Section 3. Exemption

49 a) Nothing in this chapter shall prohibit individuals from using disposable food service
50 ware or other items made of black plastic purchased outside the Commonwealth of
51 Massachusetts for personal use. b) Prepared food packaged outside the Commonwealth of
52 Massachusetts is exempt from the provisions of this chapter, provided that it is sold or otherwise
53 provided to the consumer in the same disposable food service ware in which it was originally
54 packaged, and that the prepared food has not been altered or repackaged. c) The Commonwealth
55 of Massachusetts Department of Environmental Protection or the Board of Health of the city or
56 town in which the food or retail establishment is located may exempt a food establishment or

57 retail establishment from any provision of this chapter for a period of up to six months upon
58 written application by the owner or operator of that establishment. No exemption will be granted
59 unless the Department of Environmental Protection or the Board of Health finds that (1) strict
60 enforcement of the provision for which the exemption is sought would cause undue hardship; or
61 (2) the food establishment or retail establishment requires additional time in order to draw down
62 an existing inventory of a specific item regulated by this chapter. For purposes of this chapter,
63 “undue hardship” shall mean a situation unique to a food establishment or retail establishment in
64 which there are no reasonable alternatives to the use of materials prohibited by this chapter, and
65 that compliance with this chapter would create significant economic hardship for the
66 Establishment.

67 Section 4. Enforcement

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

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

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

79 First Offense: written warning

80 Second Offense: \$50 penalty

81 Third and each subsequent offense: \$300 penalty

82 Section 5. Regulations

83 The Board of Health in any city or town in the Commonwealth, may adopt and amend
84 rules and regulations to effectuate the purposes of this chapter.

85 Section 6. Interaction with Other Laws

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

89 Section 7. Severability

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

92 SECTION 2. The provisions of this bill shall take effect one year after passage unless
93 otherwise specified.