

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 create fees for single use disposable food containers.

PETITION OF:

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

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

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

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

13 The General Laws are hereby amended by inserting after chapter 21O the following
14 chapter:

15 Chapter 21P

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
22 within 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
26 entity, non-profit vendor or business, operating within the Commonwealth that sells or provides
27 food or beverages for human consumption to consumers directly or indirectly through a delivery
28 or 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;

37 (2) Except for food that is included in a buffet or salad bar, the customer’s food and
38 beverage order are delivered directly to the customer and

39 (3) If a customer wants additional items with the customer’s food or beverage order, the
40 customer requests such items from a server or waitstaff.

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

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

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

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

53 Section 2: Re-establishing the environmental fund

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

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

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

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

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

70 Section 3: Beverage Containers Provided on Request

71 (a). Food service providers and full-service restaurants must permit and/or offer
72 customers the option of utilizing reusable containers or vessels, provided the reusable beverage
73 container complies with the retail food code established in 105 CMR 590.

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

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

81 (d). Food service providers may ask a drive-through consumer if the consumer wants
82 single-use containers if the single-use containers are necessary for the consumer to safely
83 consume or transport said food product.

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

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

91 Section 4: Enforcement and Compliance

92 (a). The Department is required to promulgate rules and regulations for the
93 implementation and enforcement of this act.

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

98 (c). A food service provider shall be subject to the following:

99 (1) A written notice for a first violation

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

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

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

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

109 (f). A food service provider who receives a written notice of violation pursuant to this
110 article may request an administrative review of the accuracy of the violation determination by
111 filing a signed, written notice of appeal with the Department, no later than 30 days from the date
112 the notice of violation was served. The appeal must include all facts supporting the appeal and
113 any supporting documentation, including copies of all photos, statements, and other documents

114 that the appellant wishes to be considered in connection with the appeal. The Department may
115 sustain, rescind, or modify the notice of violation and/or administrative fine, as applicable.

116 Section 5: Prohibition on Permitting of New Full-Service Restaurants That Do Not
117 Provide Reusable Food Serviceware

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

126 Section 6: Education and Outreach

127 (a). The Department is required to conduct education and outreach to consumers, food
128 service providers, and third-party food delivery platforms regarding the requirements and
129 purpose of the law.

130 (b). The education and outreach shall, at a minimum, include:

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

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

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

136 (4) The requirements of this act; and

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

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

143 (d). The Department of Public Health is responsible for educating full-service restaurants
144 about the environmental benefits of reusable food serviceware, as well as the requirements of
145 section 5 of this act.

146 Section 7: Severability

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

151 Section 8: Preemption

152 (a). Nothing in this act shall limit the ability of any city or county within the jurisdiction
153 of the Commonwealth of Massachusetts from passing more restricting laws, ordinances, or

154 regulations, governing the use of single-use food serviceware or single-use condiments, so long
155 as those laws, ordinances, or regulations do not violate the provisions of this act.

156 Section 9: Effective Date

157 (a). Section 6 of this act shall take effect immediately upon enactment.

158 (b). Section 5 of this act shall take effect one year after enactment.

159 (c). The remainder of the act shall take effect one year after enactment.