

SENATE No.

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 polystyrene in the environment.

PETITION OF:

NAME:

Jason M. Lewis

DISTRICT/ADDRESS:

Fifth Middlesex

SENATE No.

[Pin Slip]

The Commonwealth of Massachusetts

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

An Act to reduce polystyrene in 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 The General Laws are hereby amended by inserting after chapter 21O the following
2 chapter:-

3 Chapter 21P.

4 Section 1. Definitions.

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

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

12 such containers are used to serve such food or beverages. Disposable Food Service Ware also
13 includes any such implements sold by Retail Establishments to consumers for personal use.

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

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

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

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

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

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

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

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

56 Section 2. Regulated Conduct

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

60 (b) One year after passage of this Act, no Retail Establishment in the Commonwealth of
61 Massachusetts may sell, offer for sale, or otherwise distribute: 1. disposable food service ware
62 made from foam polystyrene or solid polystyrene 2. meat trays, fish trays, seafood trays,
63 vegetable trays, or egg cartons made in whole or in any part with foam polystyrene or solid
64 polystyrene 3. distributing packing materials, including packing peanuts, other loose fill
65 packaging and shipping boxes made in whole or in any part with foam polystyrene. 4. coolers,
66 ice chests, or similar containers; pool or beach toys; and dock floats, mooring buoys, or anchor
67 or navigation markers, which are made in whole or in any part with foam polystyrene that is not
68 wholly encapsulated within a more durable material.

69 (c) For the purposes of Section 2(b)(3), ‘distributing packing material’ does not include:
70 1. Re-using packing materials for shipping, transport, or storage within the same distribution
71 system, where the packing materials are not sent to a customer or end user. 2. Receiving
72 shipments within the Commonwealth that include polystyrene foam used as a packing material,
73 provided that the goods were not packaged or repackaged within the Commonwealth of
74 Massachusetts.

75 Section 3. Exemption

76 (a) Nothing in this chapter shall prohibit individuals from using disposable food service
77 ware or other items made of polystyrene purchased outside the Commonwealth of Massachusetts
78 for personal use.

79 (b) Prepared food packaged outside the Commonwealth of Massachusetts is exempt from
80 the provisions of this chapter, provided that it is sold or otherwise provided to the consumer in
81 the same disposable food service ware in which it was originally packaged, and that the prepared
82 food has not been altered or repackaged.

83 (c) The Commonwealth of Massachusetts Department of Environmental Protection or the
84 Board of Health of the city or town in which the food or retail establishment is located may
85 exempt a food establishment or retail establishment from any provision of this chapter for a
86 period of up to six months upon written application by the owner or operator of that
87 establishment. No exemption will be granted unless the Department of Environmental Protection
88 or the Board of Health finds that (1) strict enforcement of the provision for which the exemption
89 is sought would cause undue hardship; or (2) the food establishment or retail establishment
90 requires additional time in order to draw down an existing inventory of a specific item regulated
91 by this chapter. For purposes of this chapter, “undue hardship” shall mean a situation unique to a
92 food establishment or retail establishment in which there are no reasonable alternatives to the use
93 of materials prohibited by this chapter, and that compliance with this chapter would create
94 significant economic hardship for the Establishment

95 Section 4. Enforcement

96 Health Agents of the cities and towns of the Commonwealth of Massachusetts shall also
97 have the authority to enforce this chapter. This chapter may be enforced through any lawful
98 means in law or in equity, including but not limited to, noncriminal disposition pursuant to G.L.
99 c. 40 § 21D. The town or city may enforce this chapter or enjoin violations thereof through any
100 lawful process or combination of processes, and the election of one remedy by the town or city
101 shall not preclude enforcement through any other lawful means.

102 Violations of this chapter are punishable by a fine of up to \$500 per violation. Each
103 successive day of noncompliance will count as a separate violation.

104 If non-criminal disposition is elected, then any Food or Retail Establishment that violates
105 any provision of this chapter shall be subject to the following penalties: (i) first offense: written
106 warning;(ii) second offense: \$250 penalty, and (iii) third and each subsequent offense: \$500
107 penalty.

108 Section 5. Regulations

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

111 Section 6. Interaction with Other Laws

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