

MAINE STATE LEGISLATURE

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Date: 3/28/19 Majority

L.D. 289
(Filing No. H- 49)

ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 213, L.D. 289, Bill, "An Act To Prohibit the Use of Certain Disposable Food Service Containers"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 38 MRSA c. 15-A is enacted to read:

CHAPTER 15-A

DISPOSABLE FOOD SERVICE CONTAINERS

§1571. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Consumer. "Consumer" means an individual who purchases or accepts food or beverages for use or consumption.

2. Disposable food service container. "Disposable food service container" means service ware designed for one-time use.

A. "Disposable food service container" includes service ware for take-out foods, packaged meat, eggs, bakery products and leftovers from partially consumed meals prepared by food establishments.

B. "Disposable food service container" does not include polystyrene foam coolers or ice chests that are used for the processing or shipping of seafood.

3. Food establishment. "Food establishment" means a retail, wholesale or other establishment that processes, prepares, sells or provides food or beverages. "Food establishment" includes, but is not limited to:

A. Convenience stores, restaurants, grocery stores, markets, delicatessens and retailers of merchandise and dry goods that sell or provide food or beverages to consumers;

COMMITTEE AMENDMENT

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1 B. Food pantries, churches, community organizations, catered events, seasonal or
2 temporary businesses such as agricultural fairs or farmers' markets and events that
3 provide food or beverages without charge; and

4 C. Any place that manufactures, processes, prepares, bottles, packages, handles or
5 stores food or beverages for retail sale or wholesale sale.

6 "Food establishment" does not include a hospital licensed under Title 22, chapter 405 or a
7 so-called meals on wheels establishment funded in whole or in part directly or indirectly
8 by the Department of Health and Human Services to provide meals at dispersed locations
9 from central kitchen facilities.

10 4. Political subdivision. "Political subdivision" has the same meaning as in Title 14,
11 section 8102, subsection 3.

12 5. Polystyrene foam. "Polystyrene foam" means blown polystyrene and expanded
13 or extruded foams using a styrene monomer.

14 6. Service ware. "Service ware" means a container, bowl, plate, tray, carton, cup,
15 lid, sleeve, stirrer or other item designed to be used to contain, transport, serve or
16 consume prepared foods.

17 7. State. "State" has the same meaning as in Title 14, section 8102, subsection 4.

18 **§1572. Prohibitions; exemptions**

19 1. Prohibition. Beginning January 1, 2021, a food establishment may not process,
20 prepare, sell or provide food or beverages in or on a disposable food service container
21 that is composed in whole or in part of polystyrene foam.

22 2. Plastic beverage stirrers. A food establishment providing beverages at a facility
23 or function of the State or of a political subdivision may not provide beverage stirrers that
24 are composed of plastic. For the purposes of this subsection, "beverage stirrer" means a
25 device that is designed solely to mix liquids that are intended for internal human
26 consumption and are contained in a single-serving container.

27 3. Exemptions. Notwithstanding subsection 1, a food establishment may:

28 A. In an emergency for the immediate preservation of the public health or safety, as
29 determined applicable by the department, process, prepare, sell or provide food or
30 beverages in or on a disposable food service container that is composed in whole or
31 in part of polystyrene foam;

32 B. Sell or provide food or beverages in or on a disposable food service container that
33 is composed in whole or in part of polystyrene foam that a consumer brings to the
34 food establishment; and

35 C. Sell at retail food or beverages in or on a disposable food service container that is
36 composed in whole or in part of polystyrene foam that the food establishment
37 purchases prepackaged at wholesale.

38 **§1573. Penalty; rules**

39 1. Penalty. A violation of this chapter is a civil violation for which a fine of not
40 more than \$100 may be adjudged.

COMMITTEE AMENDMENT "A" to H.P. 213, L.D. 289

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2. Rules. The department may adopt rules to implement the provisions of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 38 MRSA c. 16-A, as amended, is repealed.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is the majority report of the committee, replaces the bill, repeals the existing law regarding nondegradable food and beverage containers and enacts a new provision of law regarding disposable food service containers. Under the amendment, beginning January 1, 2021, a food establishment is prohibited, subject to certain exemptions, from processing, preparing, selling or providing food or beverages in or on a disposable food service container that is composed in whole or in part of polystyrene foam. The amendment also:

1. Excludes from the definition of "disposable food service container" polystyrene foam coolers and ice chests that are used for the processing or shipping of seafood;

2. Adds sleeves and stirrers to the definition of "service ware";

3. Excludes from the definition of "food establishment" hospitals licensed under the Maine Revised Statutes, Title 22, chapter 405 and so-called meals on wheels establishments funded in whole or in part directly or indirectly by the Department of Health and Human Services; and

4. Incorporates from the existing law, which was repealed in the amendment, regarding nondegradable food and beverage containers certain definitions, a penalty provision and a prohibition on the use of plastic beverage stirrers by food establishments providing or serving beverages at a facility or function of the State or of a political subdivision.

FISCAL NOTE REQUIRED

(See attached)



Approved: 03/18/19 *MAC*

129th MAINE LEGISLATURE

LD 289

LR 261(02)

An Act To Prohibit the Use of Certain Disposable Food Service Containers

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-49)
Committee: Environment and Natural Resources
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Department of Environmental Protection as a result of rulemaking related to a prohibition on the use of polystyrene foam in disposable food service containers is anticipated to be minor and can be absorbed within existing budgeted resources.