

HOUSE No. 767

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 reduce single-use plastics from the environment.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>1/20/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/3/2023</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/3/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/13/2023</i>
<i>Margaret R. Scarsdale</i>	<i>1st Middlesex</i>	<i>2/13/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/1/2023</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>3/1/2023</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>3/1/2023</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>3/1/2023</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>3/8/2023</i>

HOUSE No. 767

By Representative Ciccolo of Lexington, a petition (accompanied by bill, House, No. 767) of Michelle L. Ciccolo and others for legislation to reduce single-use plastics from the environment. Environment and Natural Resources.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to reduce single-use plastics from 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. Prevent Plastic Grocery Bags from Entering the Environment

2 Title II of the General Laws is hereby amended by inserting after chapter 21O the
3 following chapter:

4 CHAPTER 21P: PLASTIC BAG REDUCTION

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

7 “Postconsumer recycled material”, a material that would otherwise be destined for solid
8 waste disposal, having completed its intended end use and product life cycle. Postconsumer
9 recycled material does not include materials and byproducts generated from, and commonly
10 reused within, an original manufacturing and fabrication process.

11 “Recycled paper bag”, a paper bag that is (i) 100 per cent recyclable; (ii) contains a
12 minimum of 40 per cent postconsumer recycled materials, provided, however, that an 8 pound or
13 smaller recycled paper bag shall contain a minimum of 20 per cent postconsumer recycled
14 material; and (iii) displays the words "Recyclable" and "made from 40% post-consumer recycled
15 content" or other applicable amount in a visible manner on the outside of the bag.

16 “Reusable grocery bag”, a sewn bag with stitched handles that is (i) specifically designed
17 and manufactured for at least 175 uses; (ii) can carry 25 pounds over a distance of 300 feet; and
18 (iii) is made of cloth or other machine-washable fabric other than polyethylene or
19 polyvinyl chloride.

20 “Single-use carryout bag”, a bag made of plastic, paper, or other material that is provided
21 by a Retail establishment to a customer at the point of sale and that is not a recycled paper bag or
22 a reusable grocery bag. A single-use carryout bag does not include the following: (i) a paper bag
23 provided by a pharmacy to a customer purchasing a prescription medication; (ii) a non-handled
24 bag used to protect items from damaging or contaminating other purchased items placed in a
25 recycled paper bag, a reusable grocery bag; (iii) a bag provided to contain an unwrapped food
26 item; or (iv) a non-handled bag that is designed to be placed over articles of clothing on a hanger.

27 “Retail establishment”, a store or premises in which a person is engaged in the retail
28 business of selling or providing merchandise, goods, groceries, prepared take-out food and
29 beverages for consumption off-premises or the servicing of an item, directly to customers at such
30 store or premises, including, but not limited to, grocery stores, department stores, pharmacies,
31 convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including
32 farmers markets and public markets; provided, however, that a “retail establishment” shall also

33 include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or moveable
34 roadside stand used by a person from which to engage in such business directly with customers
35 and business establishments without a storefront, including, but not limited to, a business
36 delivering prepared foods or other food items, web-based or catalog business or delivery services
37 used by a retail establishment; provided further, that a “retail establishment” shall include a non-
38 profit organization, charity or religious institution that has a retail establishment and holds itself
39 out to the public as engaging in retail activities that are characteristic of similar type retail
40 businesses, whether or not for profit when engaging in such activity.

41 Section 2. (a) Eighteen months after the enactment of this law, a Retail establishment
42 may only make available for purchase at the point of sale a reusable grocery bag.

43 (b) For up to 180 days from the date of enactment, a Retail establishment may make
44 available for purchase at the point of sale a single-use carryout bag, reusable grocery bag, or
45 recycled paper bag.

46 (c) 180 days after the enactment of this law, a Retail establishment may make available
47 for purchase a recycled paper bag, for a charge of \$0.10. This shall end eighteen months after the
48 enactment of this law.

49 (d) 180 days after the enactment of this law, a Retail establishment may make available
50 for purchase a reusable grocery bag, for a charge of no less than \$0.10.

51 (e) All moneys collected pursuant to this section shall be retained by the Retail
52 establishment.

53 (f) The department of environmental protection shall promulgate regulations with regard
54 to the enforcement of this chapter. The department of environmental protection shall establish a
55 small business exemption process by which a Retail establishment may elect to be exempt from
56 the provisions of subsections (b) through (d) of this section. A Retail establishment electing for
57 said exemption must provide to the department a self-audit attesting that they meet the following
58 criteria:

59 (i) the owner of the Retail establishment has 3 or fewer store locations under the same
60 ownership; and

61 (ii) each Retail establishment has less than 4,000 square feet of retail selling space; and

62 (iii) each Retail establishment has 15 or fewer employees employed at the store location;
63 and either

64 (iv) the Retail establishment is not a food establishment as defined by 105 CMR
65 590.001(C); or

66 (v) the Retail establishment provided to consumers at the point of sale less than 15,000
67 carry-out bags or checkout bags in total during the previous calendar year.

68 Section 3. Any municipality with an existing ordinance, rule, regulation, or by-law
69 banning or regulating single-use carryout bags, recycled paper bags, or reusable grocery bags in
70 the commonwealth shall be null and void 180 days after the enactment of this law. The exclusive
71 authority in regulating the labeling, distribution, sale, storage, transportation, use, and disposal of
72 single-use carryout bags, recycled paper bags, and reusable grocery bags in the commonwealth
73 shall be determined by this chapter.

74 SECTION 2. Reduce Polystyrene in the Environment

75 The General Laws are hereby amended by inserting after chapter 21P the following
76 chapter:

77 Chapter 21Q.

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

80 “Disposable Food Service Ware” shall mean single-use or disposable products for
81 heating, storing, packaging, serving, consuming, or transporting prepared or ready-to-consume
82 food or beverages including, but not limited to, bowls, plates, trays, cartons, cups, lids, hinged or

83 lidded containers, spoons, forks and knives. This includes any containers used by food
84 establishments to heat, cook, or store food or beverages prior to serving, regardless of whether
85 such containers are used to serve such food or beverages. Disposable Food Service Ware also
86 includes any such implements sold by Retail Establishments to consumers for personal use.

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

91 “Food Establishment” shall mean any operation that serves, vends or otherwise provides
92 food or other products to third-parties for consumption and/or use on or off the premises,
93 whether or not a fee is charged, but not including the service of food within a home or other
94 private setting. Any facility requiring a food permit in accordance with the Massachusetts State

95 Food Code, 105 CMR 590.000, et seq. and/or regulations of the Board of Health shall be
96 considered a “food establishment” for purposes of this bylaw.

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

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

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

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

112 “Retail Establishment” shall mean a store or premises engaged in the retail business of
113 selling or providing merchandise, goods, groceries, prepared take-out food and beverages for
114 consumption off-premises or the serving of an item directly to customers at such store or
115 premises, including, but not limited to, grocery stores, department stores, pharmacies,
116 convenience stores, restaurants, coffee shops and seasonal and temporary businesses, including

117 farmers markets and public markets; provided, however, that a “retail establishment” shall also
118 include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or moveable
119 roadside stand used by a person from which to engage in such business directly with customers
120 and business establishments without a storefront, including, but not limited to, a business
121 delivering prepared foods or other food items, web-based or catalog business or delivery services
122 used by a retail establishment; provided further, that a “retail establishment” shall include a non-
123 profit organization, charity or religious institution that has a retail establishment and holds itself
124 out to the public as engaging in retail activities that are characteristic of similar type commercial
125 retail businesses, whether or not for profit when engaging in such activity.

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

129 Section 2. Regulated Conduct

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

133 b. One year after passage of this Act, no Retail Establishment in the Commonwealth of
134 Massachusetts may sell, offer for sale, or otherwise distribute: 1. disposable food service ware
135 made from foam polystyrene or solid polystyrene 2. meat trays, fish trays, seafood trays,
136 vegetable trays, or egg cartons made in whole or in any part with foam polystyrene or solid
137 polystyrene 3. distributing packing materials, including packing peanuts and shipping boxes
138 made in whole or in any part with foam polystyrene that is not wholly encapsulated within a

139 more durable material. 4. coolers, ice chests, or similar containers; pool or beach toys; and dock
140 floats, mooring buoys, or anchor or navigation markers, which are made in whole or in any part
141 with foam polystyrene that is not wholly encapsulated within a more durable material.

142 c. For the purposes of Section 2(b)(3), 'distributing packing material' does not include: 1.
143 Re-using packing materials for shipping, transport, or storage within the same distribution
144 system, where the packing materials are not sent to a customer or end user. 2. Receiving
145 shipments within the Commonwealth that include polystyrene foam used as a packing material,
146 provided that the goods were not packaged or repackaged within the Commonwealth of
147 Massachusetts.

148 Section 3. Exemption

149 a) Nothing in this chapter shall prohibit individuals from using disposable food service
150 ware or other items made of polystyrene purchased outside the Commonwealth of Massachusetts
151 for personal use. b) Prepared food packaged outside the Commonwealth of Massachusetts is
152 exempt from the provisions of this chapter, provided that it is sold or otherwise provided to the
153 consumer in the same disposable food service ware in which it was originally packaged, and that
154 the prepared food has not been altered or repackaged. c) The Commonwealth of Massachusetts
155 Department of Environmental Protection or the Board of Health of the city or town in which the
156 food or retail establishment is located may exempt a food establishment or retail establishment
157 from any provision of this chapter for a period of up to six months upon written application by
158 the owner or operator of that establishment. No exemption will be granted unless the Department
159 of Environmental Protection or the Board of Health finds that (1) strict enforcement of the
160 provision for which the exemption is sought would cause undue hardship; or (2) the food

161 establishment or retail establishment requires additional time in order to draw down an existing
162 inventory of a specific item regulated by this chapter. For purposes of this chapter, “undue
163 hardship” shall mean a situation unique to a food establishment or retail establishment in which
164 there are no reasonable alternatives to the use of materials prohibited by this chapter, and that
165 compliance with this chapter would create significant economic hardship for the Establishment.

166 Section 4. Enforcement

167 Health Agents of the cities and towns of the Commonwealth of Massachusetts shall also
168 have the authority to enforce this chapter. This chapter may be enforced through any lawful
169 means in law or in equity, including but not limited to, noncriminal disposition pursuant to G.L.

170 c. 40 § 21D and Article VI of the General Bylaws. The town or city may enforce this
171 chapter or enjoin violations thereof through any lawful process or combination of processes, and
172 the election of one remedy by the town or city shall not preclude enforcement through any other
173 lawful means.

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

176 If non-criminal disposition is elected, then any Food or Retail Establishment that violates
177 any provision of this chapter shall be subject to the following penalties: (i) first offense: written
178 warning;(ii) second offense: \$50 penalty, and (iii) third and each subsequent offense: \$300
179 penalty

180 Section 5. Regulations

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

183 Section 6. Interaction with Other Laws

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

187 Section 7. Severability

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

190 SECTION 3. Reduce Plastic Straws in the Environment

191 The General Laws are hereby amended by inserting after chapter 21Q the following
192 chapter:

193 Chapter 21R.

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

196 “Disability” shall mean a physical, intellectual, or sensory impairment that substantially
197 limits one or more major life activities.

198 “Disposable plastic straw, stirrer, or splash stick” shall mean a drinking straw, stirrer, or
199 splash stick made predominantly from synthetic polymers and that is not a reusable straw, stirrer,
200 or splash stick. A disposable plastic straw, stirrer, or splash stick shall also include items made in

201 whole or in part from synthetic polymers that are otherwise classified as ‘compostable’,
202 ‘biodegradable’, ‘oxodegradable’, or ‘marine degradable’.

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

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

211 “Medical Condition” shall mean any illness, disease, or injury that requires medical
212 treatment.

213 “Reusable straw, stirrer, or splash stick” shall mean a drinking straw, stirrer, or splash
214 stick that is manufactured from durable materials, and is designed to be adequately and
215 repeatedly cleaned and sanitized for reuse.

216 “Retail Establishment” shall mean a store or premises engaged in the retail business of
217 selling or providing merchandise, goods, groceries, prepared take-out food and beverages for
218 consumption off-premises or the serving of an item, directly to customers at such store or
219 premises, including, but not limited to, grocery stores, department stores, clothing stores,
220 pharmacies, convenience stores, restaurants, coffee shops and seasonal and temporary
221 businesses, including farmers markets and public markets; provided, however, that a “retail
222 establishment” shall also include a food truck or other motor vehicle, mobile canteen, trailer,

223 market pushcart or moveable roadside stand used by a person from which to engage in such
224 business directly with customers and business establishments without a storefront, including, but
225 not limited to, a business delivering prepared foods or other food items, web-based or catalog
226 business or delivery services used by a retail establishment; provided further, that a “retail
227 establishment” shall include a non-profit organization, charity or religious institution that has a
228 retail establishment and holds itself out to the public as engaging in retail activities that are
229 characteristic of similar type commercial retail businesses, whether or not for profit when
230 engaging in such activity.

231 Section 2. Regulated Conduct

232 a. One year after passage of this Act, no food establishment in the Commonwealth of
233 Massachusetts may provide a disposable plastic straw, stirrer, or splash stick, as such term is
234 defined in this chapter, to a customer.

235 b. One year after passage of this Act, no food establishment in the Commonwealth of
236 Massachusetts may provide a disposable straw, stirrer, or splash stick that is not a reusable straw,
237 stirrer, or splash stick to a customer, except upon that customer’s specific request for such items
238 or if the item is selected by a customer from a self-service dispenser.

239 c. One year after passage of this Act, retail establishments in the Commonwealth of
240 Massachusetts are prohibited from selling or distributing disposable plastic straws, stirrers, or
241 splash sticks to customers unless equivalent non-plastic or reusable straws, stirrers, or splash
242 sticks are available for sale and are clearly labeled such that any customer can easily distinguish
243 among the disposable plastic, disposable non-plastic, and reusable items.

244 Section 3. Exemptions

245 a. Nothing in this bylaw shall prohibit individuals from bringing and using their own
246 personal straws, stirrers, or splash sticks of any type for personal use in a food establishment. b.
247 Food establishments may provide a disposable plastic straw, stirrer, or splash stick, upon request,
248 to a person in need due to a disability or medical condition. c. The Department of Environmental
249 Protections or the Board of Health or health agent of the city or town in which the establishment
250 is located may exempt a food establishment or retail establishment from any provision of this
251 chapter for a period of up to six months upon written application by the owner or operator of that
252 establishment. No exemption will be granted unless the Department or the Board of Health or
253 health agent finds that the establishment requires additional time in order to draw down
254 an existing inventory of a specific item regulated by this chapter.

255 Section 4. Enforcement

256 Health Agents shall have the authority to enforce this bylaw. This bylaw may be enforced
257 through any lawful means in law or in equity, including but not limited to, noncriminal
258 disposition pursuant to G.L. c. 40 § 21D and Article VI of the General Bylaws. The city or town
259 may enforce this chapter or enjoin violations thereof through any lawful process or combination
260 of processes, and the election of one remedy by the city or town shall not preclude enforcement
261 through any other lawful means.

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

264 If non-criminal disposition is elected, then any Food Establishment or Retail
265 Establishment that violates any provision of this bylaw shall be subject to the following

266 penalties: (i) first offense: written warning, (ii) second offense: \$50 penalty, and (iii) third and
267 each subsequent offense: \$300 penalty.

268 Section 5. Regulations

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

271 Section 6. Interaction with Other Laws

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

275 Section 7. Severability

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

278 SECTION 4. To Prevent the Release of Helium Balloons into the Environment

279 Chapter 131 of the General Laws, as appearing in the 2016 official edition, is hereby
280 amended by adding the following new section:

281 Section 119. The sale, distribution and release of any type of balloon, including, but not
282 limited to, plastic or latex, filled with any type of lighter than air gas, both for public or private
283 use, is hereby prohibited. Whoever violates any provision of this section shall be punished by a
284 fine of not more than one hundred dollars.

285 The provisions of this section shall not apply to (i) balloons released by or on behalf of
286 any agency of the commonwealth or the United States for scientific or meteorological purposes,
287 or (ii) hot air balloons that are recovered after launch.

288 SECTION 5. To Prevent the Release of Nips into the Environment

289 One year after passage of this Act, the sale of alcoholic beverages in containers less than
290 or equal to 100 milliliters is prohibited within the Commonwealth of Massachusetts.

291 SECTION 6. To Prevent the Release of Wipes Containing Plastic into the Environment

292 Section 1. For purposes of this section, the following definition shall apply:

293 “Plastic Wipe”, a nonwoven disposable product manufactured and sold in this state or
294 brought into the state for sale that is constructed from plastic resin (including, but not limited to,
295 polyester and polypropylene) nonwoven sheets, including moist toilet tissue or cloth, that is
296 designed, marketed to or commonly used by the general public for personal hygiene or cleaning
297 purposes, including, but not limited to, diaper wipes, toilet wipes, household cleaning wipes,
298 personal care wipes and facial wipes.

299 Section 2. No retailer shall sell or distribute plastic wet wipes other than those used for
300 medical applications.

301 Section 3. This law shall not affect prescription products.

302 SECTION 7. To Prevent the Release of Hotel Toiletry Bottles into the Environment

303 Section 1. (a) For purposes of this section, the following definitions shall apply:

304 (1) “Hosted rental” means a house, apartment, or other livable space where the person
305 providing sleeping accommodations is a permanent resident who lives on the premises.

306 (2) “Lodging establishment” means an establishment that contains one or more sleeping
307 room accommodations that are rented or otherwise provided to the public, including, but not
308 limited to, a hotel, motel, resort, bed and breakfast inn, or vacation rental. “Lodging
309 establishment” does not include a hospital, nursing home, residential retirement community,
310 prison, jail, homeless shelter, boarding school, worker housing, long-term rental, or hosted
311 rental.

312 (3) “Personal care product” means a product intended to be applied to or used on the
313 human body in the shower, bath, or any part thereof and shall include only shampoo, hair
314 conditioner, and bath soap.

315 (4) “Plastic” means any synthetic material made from organic polymers, such as
316 polyethylene, polyvinyl chloride (PVC), or nylon, that can be molded into shape while soft and
317 then set into a rigid or slightly elastic form. “Plastic” includes all materials identified with resin
318 codes 1 to 7, inclusive.

319 (5) “Small plastic bottle” means a plastic bottle or container with less than a 6-ounce
320 capacity that is intended to be nonreusable by the end user.

321 (b) Commencing one year from the passage of this act for lodging establishments with
322 more than 50 rooms, and two years from the passage of this act for lodging establishments with
323 50 rooms or less, a lodging establishment shall not provide a small plastic bottle containing a
324 personal care product to a person staying in a sleeping room accommodation, in any space within
325 the sleeping room accommodation, or within bathrooms shared by the public or guests.

326 (c) A lodging establishment is encouraged to use bulk dispensers of personal care
327 products to reduce plastic waste and lower operating costs, mindful of the health and safety of a
328 person.

329 (d) A lodging establishment may provide personal care products in small plastic bottles to
330 a person at no cost, upon request, at a place other than a sleeping room accommodation, a space
331 within the sleeping room accommodation, or within bathrooms shared by the public or guests.

332 (e) A local agency with authority to inspect sleeping accommodations in a lodging
333 establishment may issue a citation for a violation of subdivision (b). Upon a first violation, the
334 local Board of Health shall issue a written warning, which shall recite the violation and advise
335 that subsequent violations may result in citations. Upon a second or subsequent violation, the
336 local agency may impose a penalty of five hundred dollars (\$500) for each day the lodging
337 establishment is in violation, but not to exceed two thousand dollars (\$2,000) annually.

338 (f) A lodging establishment in violation of subdivision (b) is liable for a civil penalty of
339 five hundred dollars (\$500) for the first violation and two thousand dollars (\$2,000) for a second
340 or subsequent violation.

341 (g) (1) On and after one year from the passage of this act, a city, county, or city and
342 county shall not pass or enforce an ordinance, resolution, regulation, or rule relating to personal
343 care products in plastic bottles provided at lodging establishments, except as provided in
344 paragraph (2).

345 Section 2. A city, county, or city and county that, before the passage of this act, passed an
346 ordinance, resolution, regulation, or rule relating to personal care products in plastic bottles

347 provided at lodging establishments may enforce that ordinance, resolution, regulation, or rule, if
348 it is at least as stringent as, and not in conflict with, this section.

349 SECTION 8. To Prevent the Release of Plastic Water Bottles Into the Environment

350 Section 1. (a) For purposes of this section, the following definitions shall apply:

351 "Single-serve plastic container" means a container with a volume of 1 liter or less made
352 in whole or in part of plastic resin codes 1 through 6 (excluding the label or cap).

353 "Bottled Water" means non-sparkling, unflavored drinking water.

354 Section 2. Restrictions

355 No retailer shall sell or distribute any bottled water in a single-serve plastic container
356 other than nutritive drinks, tea, coffee, or unflavored carbonated water.

357 Section 3. Exclusions

358 Sales or distribution of drinking water in plastic bottles occurring subsequent to a
359 declaration by a duly authorized Town, state or Federal official of an emergency affecting the
360 availability and/or quality of drinking water to residents of the Town shall be exempt from this
361 bylaw until seven days after the declaration has ended.

362 Section 4. Effective Date

363 The provisions of this law shall take effect one year after passage of this Act.

364 SECTION 9. To Prevent the Release of Black Plastic into the Environment

365 The General Laws are hereby amended by inserting after chapter 21R the following
366 chapter:

367 Chapter 21S.

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

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

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

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

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

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

390 “Retail Establishment” shall mean a store or premises engaged in the retail business of
391 selling or providing merchandise, goods, groceries, prepared take-out food and beverages for
392 consumption off-premises or the serving of an item directly to customers at such store or
393 premises, including, but not limited to, grocery stores, department stores, pharmacies,

394 convenience stores, restaurants, coffee shops and seasonal and temporary businesses,
395 including farmers markets and public markets; provided, however, that a “retail establishment”
396 shall also include a food truck or other motor vehicle, mobile canteen, trailer, market pushcart or
397 moveable roadside stand used by a person from which to engage in such business directly with
398 customers and business establishments without a storefront, including, but not limited to, a
399 business delivering prepared foods or other food items, web-based or catalog business or
400 delivery services used by a retail establishment; provided further, that a “retail establishment”
401 shall include a non-profit organization, charity or religious institution that has a retail
402 establishment and holds itself out to the public as engaging in retail activities that are
403 characteristic of similar type commercial retail businesses, whether or not for profit when
404 engaging in such activity.

405 Section 2. Regulated Conduct

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

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

413 Section 3. Exemption

414 a) Nothing in this chapter shall prohibit individuals from using disposable food service
415 ware or other items made of black plastic purchased outside the Commonwealth of
416 Massachusetts for personal use. b) Prepared food packaged outside the Commonwealth of
417 Massachusetts is exempt from the provisions of this chapter, provided that it is sold or otherwise
418 provided to the consumer in the same disposable food service ware in which it was originally
419 packaged, and that the prepared food has not been altered or repackaged. c) The Commonwealth
420 of Massachusetts Department of Environmental Protection or the Board of Health of the city or
421 town in which the food or retail establishment is located may exempt a food establishment or
422 retail establishment from any provision of this chapter for a period of up to six months upon
423 written application by the owner or operator of that establishment. No exemption will be granted
424 unless the Department of Environmental Protection or the Board of Health finds that (1) strict
425 enforcement of the provision for which the exemption is sought would cause undue hardship; or
426 (2) the food establishment or retail establishment requires additional time in order to draw down
427 an existing inventory of a specific item regulated by this chapter. For purposes of this chapter,

428 “undue hardship” shall mean a situation unique to a food establishment or retail establishment in
429 which there are no reasonable alternatives to the use of materials prohibited by this chapter, and
430 that compliance with this chapter would create significant economic hardship for the
431 Establishment.

432 Section 4. Enforcement

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

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

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

444 First Offense: written warning

445 Second Offense: \$50 penalty

446 Third and each subsequent offense: \$300 penalty

447 Section 5. Regulations

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

450 Section 6. Interaction with Other Laws

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

454 Section 7. Severability

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

457 SECTION 10. To Support Our Restaurants

458 Section 1. For purposes of this chapter, the following terms have the following
459 definitions:

460 (a) “Disposable”, means designed to be discarded after a single or limited number of uses
461 and not designed or manufactured for long-term multiple reuse.

462 (b) “Food service ware accessories”, include food service ware such as straws, stirrers,
463 cup spill plugs, cup sleeves, condiments and condiment packets, utensils (including chopsticks),
464 cocktail sticks/picks, toothpicks, napkins, and other similar accessory or accompanying food
465 service ware used as part of food or beverage service or packaging. Detachable lids for beverage
466 cups and food containers are not considered a food service ware accessory.

467 (c) “Food facility”, means an operation that stores, prepares, packages, serves, vends, or
468 otherwise provides food to the public for human consumption.

469 (d) “Takeout food”, means prepared food requiring no further preparation, which is
470 purchased to be consumed off a prepared food facility’s premises. Takeout food includes
471 prepared food delivered by a food facility or by a third-party takeout food delivery service.

472 (e) “Takeout food delivery service”, is a service that delivers takeout food from a food
473 facility to a customer for consumption off the premises. This service can be provided directly by
474 the food facility or by a third party.

475 Section 2.

476 (a) No food facility shall provide any disposable food service ware accessories except:

- 477 1. Upon request by the consumer;
- 478 2. Upon acceptance by the consumer after being offered by the food facility; or
- 479 3. At a self-serve area and/or a dispenser.

480 (b) Food facilities shall only distribute disposable food service ware if they charge the
481 customer what that food ware cost the food facility, or a dollar, whichever is greater.

482 (c) Takeout food delivery services that utilize digital ordering/point of sale platforms,
483 including but not limited to the internet and smartphones, shall only offer disposable food service
484 ware accessories by providing clear options for customers to affirmatively request these items
485 separate from orders for food and beverages. The default option on the digital ordering/point of
486 sale platforms shall be that no disposable food service ware accessories are requested. Each

487 individual disposable food service ware accessory (e.g., each fork, knife, condiment packet,
488 napkin, etc.) provided with prepared food must be specifically requested by the customer in order
489 for a food facility to provide it.

490 (d) Takeout food delivery services shall only distribute disposable food service ware if
491 they charge the customer what that food ware cost the food facility, or a dollar, whichever is
492 greater.

493 SECTION 11. The General Laws are hereby amended by inserting after chapter 21O the
494 following chapter:

495 CHAPTER 21P.

496 IMPROVED PLASTIC BOTTLES AND INCREASED RECYCLING

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

499 (a) "Beverage", any of the following products prepared for immediate consumption and
500 sold in a single-use container: beer and malt beverages; wine distilled spirit coolers; carbonated
501 water and soda; noncarbonated water; carbonated soft drinks; noncarbonated soft drinks and
502 'soft' drinks; non-carbonated fruit drinks that contain any percentage of fruit juice and vegetable
503 juice; coffee and tea drinks; carbonated fruit drinks; vegetable and fruit juice, sports drinks,
504 fermented non-alcoholic drinks;

505 (b) "Beverage cap", a cap on any plastic beverage container that is made wholly or in
506 large part from plastic;

507 (c) “Plastic beverage container”, an individual, separate bottle, can, jar, carton, or other
508 receptacle, however denominated, in which one liter or less of a beverage is sold, and that is
509 constructed of plastic. “Beverage container” does not include a cup or other similar container
510 open or loosely sealed receptacle;

511 (d) “The Department” means the Department of Environmental Protection for the
512 Commonwealth of Massachusetts;

513 (e) “Plastic”, an organic or petroleum derivative synthetic or a semisynthetic organic
514 solid that is moldable, and to which additives or other substances may have been added, with the
515 exception of natural polymers that have not been chemically modified;

516 (f) “Product manufacturer” means any person, partnership, association, corporation or
517 any other entity that, through its own action or through contract or control, is primarily
518 responsible for causing a product to be produced that is held inside of a rigid plastic packaging
519 container and sold or offered for sale in Massachusetts.

520 i. The Department shall consider the following factors in identifying a product
521 manufacturer: (1) the ownership of the brand name of the product in the beverage container; (2)
522 primary control or influence over the design of the product in the beverage container; (3) primary
523 control or influence over the design specifications of the beverage container;

524 ii. Any entity that has a legally recognized corporate relationship (i.e. parent/subsidiary or
525 affiliate relationship) with a product manufacturer shall be allowed to assume the responsibilities
526 of the product manufacturer as they relate to the requirements of this Act.

527 (h) “Retailer” means a person who sells a beverage in a beverage container to a
528 consumer;

529 (i) “Single use”, means intended for disposal after one use and used for serving or
530 transporting a prepared, ready-to-consume product, and is not intended for multiple trips or
531 rotations by being returned to the producer for refill or reused for the same purpose for which it
532 was conceived.

533 Section 2. Prohibition

534 (a) On and after January 1, 2024, a retailer shall not sell or offer for sale, in the state, a
535 single-use beverage container with a beverage cap, unless the container meets one of the
536 following conditions: (i) the beverage cap is tethered to the container in a manner that prevents
537 the separation of the cap from the container when the cap is removed from the container; (ii) The
538 beverage cap includes an opening from which the beverage can be consumed while the cap is
539 screwed onto or otherwise contiguously affixed to the container;

540 (b) Metal caps or lids with plastic seals shall not be considered to be made from plastic.
541 Glass and metal beverage containers that have caps and lids made from plastic shall not be
542 included in this act;

543 SECTION 12. Requirements for the Removal of Toxic Substances in Beverage 544 Containers, Food Ware, and Food Ware Accessories

545 (1) Definitions:

546 (a) “Beverage container”, means a prepackaged container designed to hold a beverage
547 that is made of any material, including glass, plastic, and metal, cartons, pouches, and aseptic
548 packaging.

549 (b) “Food ware accessories”, include food serviceware such as straws, stirrers, cup spill
550 plugs, cup sleeves, condiments and condiment packets, utensils (including chopsticks), cocktail
551 sticks/picks, toothpicks, napkins, and other similar accessory or accompanying food service ware
552 used as part of food or beverage service or packaging.

553 (c) “Food ware”. means any single use or reusable containers that food is served in or
554 sold in.

555 (d) “Food packaging” means any packaging that comes into direct contact with food that
556 will eventually be consumed by human beings or animals.

557 (2) Beginning two years after adoption of this bill, no person or entity may sell, offer for
558 sale, or distributed into the state any beverage container, food ware accessories, food ware, or
559 food packaging containing the following toxic substances:

560 (a) Ortho-phthalates, (b) Bisphenols, (c) Per- and polyfluoroalkyl substances (PFAS), (d)
561 Lead and lead compounds, (e) Hexavalent chromium and compounds, (f) Cadmium and
562 cadmium compounds, (g) Mercury and mercury compounds, (h) Benzophenone and its
563 derivatives, (i) Halogenated flame retardants, (j) Perchlorate, (k) Formaldehyde, (l) Toluene, (m)
564 Antimony and compounds, and (n) UV 328 (2-(2H-benzotriazol-2-yl)-4,6-di-tert-pentylphenol).

565 (3) Beginning two years after the Start Date, no person or entity shall sell, offer for sale,
566 or distribute for use in this state any Beverage Container containing (a) polyvinyl chloride, (b)
567 polystyrene, or (c) polycarbonate.

568 (4) Beginning three years after the start date, and every three years thereafter, the
569 Department of Environmental Protection shall designate at least ten additional toxic substances
570 or families of toxic substances that may no longer be used in Beverage Containers unless the
571 Department of Environmental Protection determines there are not ten toxic substances of
572 families of toxic substances that are required to be banned from use in beverage containers.

573 (5) Any producer that violates this section shall be subject to a fine for each violation not
574 to exceed fifty thousand dollars per violation. For the purposes of this section, each product line
575 that is sold, offered for sale, or distributed to consumers, via retail commerce, in the state,
576 including through an internet transaction violation shall be considered a violation.

577 SECTION 13. The provisions of this bill shall take effect one year after passage unless
578 otherwise specified.