

# SENATE BILL 285

M3, F1, F3

(9lr0851)

## ENROLLED BILL

— *Education, Health, and Environmental Affairs/Environment and Transportation  
and Economic Matters* —

Introduced by **Senators Kagan, Augustine, Benson, Carter, Elfreth, Ellis, Feldman,  
Ferguson, Griffith, Guzzone, Hester, Kelley, King, Kramer, Lam, Lee,  
Nathan-Pulliam, Patterson, Peters, Pinsky, Rosapepe, Smith,  
Waldstreicher, Washington, West, Young, and Zucker**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Environment – Expanded Polystyrene Food Service Products – ~~Prohibition~~**  
3 **Prohibitions**

4 FOR the purpose of establishing that this Act does not affect the authority of a county,  
5 municipality, or other local government to enact standards that are at least as  
6 stringent as the standards established in this Act; prohibiting a person from selling  
7 in the State a certain expanded polystyrene food service product on or after a certain  
8 date; prohibiting a certain food service business or certain school from selling or  
9 providing food *or beverages* in a certain expanded polystyrene food service product  
10 on or after a certain date; providing that certain provisions of this Act do not prohibit  
11 a person from storing a food service product for later distribution outside the State;

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 requiring the Department of the Environment to conduct a certain public education  
 2 and outreach campaign in a certain manner; *requiring the Department to conduct a*  
 3 *public education and outreach antilittering campaign*; authorizing the Department  
 4 to provide a certain waiver to a certain food service business or certain school under  
 5 certain circumstances; requiring a ~~county health department~~ unit of county  
 6 government to enforce certain provisions of this Act; authorizing a ~~county health~~  
 7 ~~department~~ unit of county government to impose a certain penalty for certain  
 8 violations; prohibiting the imposition of a certain penalty unless certain conditions  
 9 are met; requiring a ~~county health department~~ unit of county government to notify  
 10 the Department of certain violations; authorizing the Department to adopt certain  
 11 regulations; defining certain terms; and generally relating to expanded polystyrene  
 12 food service products.

13 BY adding to

14 Article – Environment

15 Section 9–2201 through 9–2207 to be under the new subtitle “Subtitle 22. Expanded  
 16 Polystyrene”

17 Annotated Code of Maryland

18 (2014 Replacement Volume and 2018 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

20 That the Laws of Maryland read as follows:

21 **Article – Environment**

22 **SUBTITLE 22. EXPANDED POLYSTYRENE.**

23 **9–2201.**

24 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
 25 INDICATED.

26 (B) “EXPANDED POLYSTYRENE” MEANS BLOWN POLYSTYRENE AND  
 27 EXPANDED AND EXTRUDED FOAMS THAT ARE THERMOPLASTIC PETROCHEMICAL  
 28 MATERIALS UTILIZING A STYRENE MONOMER AND PROCESSED BY A NUMBER OF  
 29 TECHNIQUES, INCLUDING FUSION OF POLYMER SPHERES (EXPANDABLE BEAD  
 30 POLYSTYRENE), INJECTION MOLDING, FOAM MOLDING, AND EXTRUSION–BLOW  
 31 MOLDING (EXTRUDED FOAM POLYSTYRENE).

32 (C) (1) “EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT” MEANS A  
 33 PRODUCT MADE OF EXPANDED POLYSTYRENE THAT IS ~~USED~~;

34 (I) USED FOR SELLING OR PROVIDING FOOD OR BEVERAGES;

35 AND

1                    (II) 1. INTENDED BY THE MANUFACTURER TO BE USED ONCE  
 2 FOR EATING OR DRINKING; OR

3                    2. GENERALLY RECOGNIZED BY THE PUBLIC AS AN ITEM  
 4 TO BE DISCARDED AFTER ONE USE.

5            (2) “EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT” INCLUDES:

6                    (I) FOOD CONTAINERS;

7                    (II) PLATES;

8                    (III) HOT AND COLD BEVERAGE CUPS;

9                    (IV) ~~MEAT AND VEGETABLE TRAYS~~ TRAYS; AND

10                   (V) ~~EGG CARTONS~~ CARTONS FOR EGGS OR OTHER FOOD.

11            (3) “EXPANDED POLYSTYRENE FOOD SERVICE PRODUCT” DOES NOT  
 12 INCLUDE:

13                   ~~(I) PREPACKAGED SOUP OR OTHER FOOD THAT A FOOD~~  
 14 ~~SERVICE BUSINESS SELLS OR OTHERWISE PROVIDES TO ITS CUSTOMERS IN~~  
 15 ~~EXPANDED POLYSTYRENE CONTAINERS THAT HAVE BEEN FILLED AND SEALED~~  
 16 ~~PACKAGED BEFORE RECEIPT BY THE FOOD SERVICE BUSINESS;~~

17                   ~~(II) (I) FOOD OR BEVERAGES THAT HAVE BEEN FILLED AND~~  
 18 ~~SEALED PACKAGED IN EXPANDED POLYSTYRENE CONTAINERS OUTSIDE THE STATE~~  
 19 ~~BEFORE RECEIPT BY THE A FOOD SERVICE BUSINESS;~~

20                   ~~(III) (II) MATERIALS~~ A PRODUCT MADE OF EXPANDED  
 21 POLYSTYRENE THAT IS USED TO PACKAGE RAW, UNCOOKED, OR BUTCHERED MEAT,  
 22 FISH, POULTRY, OR SEAFOOD FOR OFF-PREMISES CONSUMPTION; OR

23                   ~~(IV) (III)~~ NONFOAM POLYSTYRENE FOOD SERVICE PRODUCTS.

24            (D) (1) “FOOD SERVICE BUSINESS” MEANS A BUSINESS IN THE STATE  
 25 THAT SELLS OR PROVIDES FOOD OR BEVERAGES FOR CONSUMPTION ON OR OFF THE  
 26 PREMISES IN THE STATE.

27                   (2) “FOOD SERVICE BUSINESS” INCLUDES A BUSINESS OR  
 28 INSTITUTIONAL CAFETERIA, INCLUDING A CAFETERIA OPERATED BY OR ON BEHALF  
 29 OF THE STATE OR A LOCAL GOVERNMENT.

- 1                    ~~(I) RESTAURANTS;~~
- 2                    ~~(II) FAST FOOD STYLE RESTAURANTS;~~
- 3                    ~~(III) CAFES;~~
- 4                    ~~(IV) DELICATESSENS;~~
- 5                    ~~(V) COFFEE SHOPS;~~
- 6                    ~~(VI) SUPERMARKETS AND GROCERY STORES;~~
- 7                    ~~(VII) VENDING TRUCKS AND CARTS;~~
- 8                    ~~(VIII) FOOD TRUCKS;~~
- 9                    ~~(IX) MOVIE THEATERS;~~
- 10                   ~~(X) DINNER THEATERS; AND~~
- 11                   ~~(XI) BUSINESS AND INSTITUTIONAL CAFETERIAS, INCLUDING~~
- 12 ~~THOSE OPERATED BY OR ON BEHALF OF THE STATE.~~

13            (E) "SCHOOL" INCLUDES:

- 14            (1) A PUBLIC ELEMENTARY OR SECONDARY SCHOOL;
- 15            (2) A NONPUBLIC ELEMENTARY OR SECONDARY SCHOOL; AND
- 16            (3) AN INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN
- 17 § 10-101(H) OF THE EDUCATION ARTICLE.

18            (F) "UNIT OF COUNTY GOVERNMENT" INCLUDES:

- 19            (1) A LOCAL HEALTH DEPARTMENT; OR
- 20            (2) A LOCAL ENVIRONMENTAL DEPARTMENT.

21 9-2202.

22            THIS SUBTITLE DOES NOT AFFECT THE AUTHORITY OF A COUNTY,  
23 MUNICIPALITY, OR OTHER LOCAL GOVERNMENT TO ENACT STANDARDS THAT ARE  
24 AT LEAST AS STRINGENT AS THE STANDARDS ESTABLISHED IN THIS SUBTITLE.

25 9-2203.

1 (A) ON OR AFTER ~~JANUARY~~ JULY 1, 2020, A PERSON MAY NOT SELL OR  
2 OFFER FOR SALE IN THE STATE AN EXPANDED POLYSTYRENE FOOD SERVICE  
3 PRODUCT.

4 (B) ON OR AFTER ~~JANUARY~~ JULY 1, 2020, A FOOD SERVICE BUSINESS OR  
5 SCHOOL MAY NOT SELL OR PROVIDE FOOD OR BEVERAGES IN AN EXPANDED  
6 POLYSTYRENE FOOD SERVICE PRODUCT.

7 (C) THIS SECTION DOES NOT PROHIBIT A PERSON FROM STORING A FOOD  
8 STORAGE SERVICE PRODUCT FOR LATER DISTRIBUTION OUTSIDE THE STATE.

9 9-2204.

10 (A) THE DEPARTMENT SHALL CONDUCT A PUBLIC EDUCATION AND  
11 OUTREACH CAMPAIGN BEFORE AND DURING THE IMPLEMENTATION OF THIS  
12 SUBTITLE.

13 (B) THE PUBLIC EDUCATION AND OUTREACH CAMPAIGN REQUIRED UNDER  
14 SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

15 (1) CONTACT WITH FOOD SERVICE BUSINESSES, IN CONSULTATION  
16 WITH ~~COUNTY HEALTH DEPARTMENTS~~ RELEVANT UNITS OF COUNTY GOVERNMENT  
17 AND RELEVANT TRADE ORGANIZATIONS;

18 (2) CONTACT WITH SCHOOLS, IN CONSULTATION WITH THE  
19 MARYLAND STATE DEPARTMENT OF EDUCATION;

20 (3) DISTRIBUTION OF INFORMATION THROUGH STATE INTERNET  
21 AND WEB-BASED RESOURCES; AND

22 (4) NEWS RELEASES AND NEWS EVENTS.

23 (C) THE DEPARTMENT SHALL CONDUCT A PUBLIC EDUCATION AND  
24 OUTREACH ANTILITTERING CAMPAIGN.

25 9-2205.

26 THE DEPARTMENT MAY GRANT TO A FOOD SERVICE BUSINESS OR SCHOOL A  
27 WAIVER FROM THE APPLICATION OF § 9-2203(B) OF THIS SUBTITLE FOR A PERIOD  
28 OF UP TO 1 YEAR IF THE DEPARTMENT DETERMINES THAT ACHIEVING COMPLIANCE  
29 UNDER THIS SUBTITLE WOULD PRESENT AN UNDUE HARDSHIP OR A PRACTICAL  
30 DIFFICULTY NOT GENERALLY APPLICABLE TO OTHER FOOD SERVICE BUSINESSES  
31 OR SCHOOLS IN SIMILAR CIRCUMSTANCES.

1 **9-2206.**

2 (A) A ~~COUNTY HEALTH DEPARTMENT~~ UNIT OF COUNTY GOVERNMENT  
3 SHALL ENFORCE § 9-2203 OF THIS SUBTITLE.

4 (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A COUNTY MAY IMPOSE  
5 A PENALTY NOT EXCEEDING \$250 ON:

6 (1) A PERSON WHO VIOLATES § 9-2203(A) OF THIS SUBTITLE; OR

7 (2) A FOOD SERVICE BUSINESS THAT VIOLATES § 9-2203(B) OF THIS  
8 SUBTITLE.

9 (C) A PENALTY MAY NOT BE IMPOSED UNDER THIS SECTION UNLESS:

10 (1) THE ~~COUNTY HEALTH DEPARTMENT~~ UNIT OF COUNTY  
11 GOVERNMENT FIRST ISSUES A WRITTEN NOTICE OF VIOLATION TO THE PERSON OR  
12 THE FOOD SERVICE BUSINESS; AND

13 (2) THE VIOLATION IS NOT CORRECTED WITHIN 3 MONTHS OF  
14 RECEIPT OF THE WRITTEN NOTICE.

15 (D) A ~~COUNTY HEALTH DEPARTMENT~~ UNIT OF COUNTY GOVERNMENT  
16 SHALL NOTIFY THE DEPARTMENT OF ANY VIOLATION OF § 9-2203 OF THIS  
17 SUBTITLE.

18 **9-2207.**

19 **THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
21 1, 2019.