1   HOUSE BILL NO. 638

2   INTRODUCED BY M. MARLER

3

4   A BILL FOR AN ACT ENTITLED: "AN ACT PHASING OUT THE USE OF STYROFOAM IN FOOD-RELATED

5   BUSINESSES; PROVIDING EXEMPTIONS; REQUIRING FEES FOR EXEMPTION APPLICATIONS;

6   PROVIDING RULEMAKING AUTHORITY; AND PROVIDING DEFINITIONS."

7

8   WHEREAS, expanded polystyrene foam, commonly known as styrofoam, is a material that causes

9   environmental harm and poses a threat to fish and wildlife; and

10   WHEREAS, styrofoam takes up space in landfills and contributes to the need for costly expansions

11   borne by taxpayers; and

12   WHEREAS, styrofoam threatens the right of each Montanan to a clean and healthful environment.

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14   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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16   NEW SECTION. **Section 1.   Definitions.** As used in [sections 1 through 4], unless the context clearly

17   indicates otherwise, the following definitions apply:

18   (1)   "Department" means the department of environmental quality provided for in 2-15-3501.

19   (2)   "Expanded polystyrene foam" means blown polystyrene and expanded and extruded foams

20   that are thermoplastic petrochemical materials using styrene.

21   (3)   "Food packager" means any person located in the state who places meat, eggs, bakery

22   products, or other food in packaging materials for the purpose of retail sale of those products.

23   (4)   "Polystyrene foam container" means a container that is made of expanded polystyrene foam.

24   (5)   "Prepared food" means a food or a beverage that is prepared for immediate consumption on or

25   off the premises of the establishment. Prepared food does not include raw uncooked meat, fish, or eggs.

26   (6)   "Undue hardship" includes but is not limited to situations in which:

27   (a)   there are no acceptable alternatives to packaging prepared food with polystyrene foam

28   containers for reasons that are unique to an applicant; or

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1   (b)   complying with the prohibition in [section 2] would deprive a person of a legally protected right.

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3   NEW SECTION. **Section 2.   Prohibition on use of expanded polystyrene foam.** Except as

4   provided in [section 3]:

5   (1)   beginning January 1, 2026, a restaurant or food establishment in the state may not serve food

6   or beverages to be consumed in the restaurant or food establishment using polystyrene foam containers;

7   (2)   beginning January 1, 2027, a restaurant, food establishment, resort, or hotel in the state may

8   not:

9   (a)   serve or package prepared food in polystyrene foam containers; or

10   (b)   provide polystyrene foam containers for use with food or beverages; and

11   (3)   beginning January 1, 2028, a food packager in the state may not package meat, eggs, bakery

12   products, or other food in a polystyrene foam container.

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14   NEW SECTION. **Section 3.   Exemptions.** A person may apply to the department for an exemption

15   from the requirements of [section 2]. The department may grant an application for an exemption if the

16   department finds there are no acceptable alternatives to the use of expanded polystyrene foam and:

17   (1)   the requirements of [section 2] would cause undue hardship; or

18   (2)   the applicant intends to use expanded polystyrene foam for purposes relating to:

19   (a)   transportation;

20   (b)   construction;

21   (c)   health; or

22   (d)   safety.

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24   NEW SECTION. **Section 4.   Rulemaking authority -- fee.** (1) The department may adopt rules to

25   implement and enforce the provisions of [sections 1 through 4].

26   (2)   The department shall adopt in rule a reasonable fee that reflects the actual costs of processing

27   applications for exemptions. Revenue from the fee must be deposited in the environmental rehabilitation and

28   response account established in 75-1-110.

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2   NEW SECTION. **Section 5.   Codification instruction.** [Sections 1 through 4] are intended to be

3   codified as a new part in Title 75, chapter 10, and the provisions of Title 75, chapter 10, apply to [sections 1

4   through 4].

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