



Senate

General Assembly

File No. 66

February Session, 2022

Substitute Senate Bill No. 118

Senate, March 22, 2022

The Committee on Environment reported through SEN. COHEN of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE USE OF CERTAIN POLYSTYRENE PRODUCTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) Not later than July 1, 2023,
2 each school district, regional school district, regional vocational
3 technical school and constituent unit of higher education shall develop
4 a plan for discontinuing the use in such district, school or constituent
5 unit, as applicable, of trays made from expanded polystyrene. Such plan
6 shall require the district, school or constituent unit, as applicable, to
7 discontinue such use not later than July 1, 2024, and to prepare for the
8 termination or amendment of any contract for the purchase of such trays
9 not later than July 1, 2023. Nothing in this section shall be construed to
10 require the development of such plan in any school district, regional
11 school district, regional vocational technical school or constituent unit
12 of higher education that discontinues the use of such trays in such
13 school district, school or constituent unit prior to July 1, 2023. For
14 purposes of this section, "expanded polystyrene" means blown

15 polystyrene and expanded and extruded foams that are thermoplastic
16 petrochemical materials utilizing a styrene monomer and processed by
17 any number of techniques, including, but not limited to, fusion of
18 polymer spheres, injection molding, foam molding and extrusion-blown
19 molding.

20 Sec. 2. (NEW) (*Effective July 1, 2024*) (a) For purposes of this section:

21 (1) "Consumer" means any business invitee of a restaurant or caterer;

22 (2) "Expanded polystyrene" means blown polystyrene and expanded
23 and extruded foams that are thermoplastic petrochemical materials
24 utilizing a styrene monomer and processed by any number of
25 techniques, including, but not limited to, fusion of polymer spheres,
26 injection molding, foam molding and extrusion-blown molding;

27 (3) "Single-use container" means any container made of expanded
28 polystyrene intended for the containment of food or beverage provided
29 by a restaurant or caterer to a consumer and customarily disposed of by
30 the consumer after such use;

31 (4) "Restaurant" has the same meaning as provided in subsection (b)
32 of section 19a-342 of the general statutes; and

33 (5) "Caterer" has the same meaning as "catering food service
34 establishment", as provided in section 19a-36g of the general statutes.

35 (b) (1) No owner or operator of a restaurant or catering business shall
36 provide or distribute a single-use container to a consumer.

37 (2) Any owner or operator who violates the provisions of this section
38 for a first violation shall be issued a warning. Any owner or operator
39 who violates the provisions of this section shall be fined two hundred
40 dollars for a second violation, five hundred dollars for a third violation
41 and one thousand dollars for a fourth or any subsequent violation. No
42 such owner or operator may be issued more than one violation per day.

43 (c) The provisions of this section shall not be construed to prohibit the

44 provision or distribution of a single-use container that is: (1) Filled and
45 sealed prior to receipt by a restaurant or caterer and that is subsequently
46 sold to a consumer, or (2) utilized by a butcher or store to contain raw
47 meat, including, but not limited to, beef, poultry, seafood or pork that is
48 sold to a consumer.

49 (d) Any local health department or health district or agent of the
50 Department of Public Health, Consumer Protection or Energy and
51 Environmental Protection may enforce the provisions of this section. In
52 the event of enforcement by a local health department or health district,
53 one-half of any fine imposed pursuant to this section shall be remitted
54 to the municipality where such violation occurred.

55 (e) Not later than February 1, 2025, the Commissioners of Public
56 Health, Consumer Protection and Energy and Environmental Protection
57 shall jointly submit a report, in accordance with the provisions of section
58 11-4a of the general statutes, to the joint standing committees of the
59 General Assembly having cognizance of matters relating to the
60 environment, public health and consumer protection on the
61 enforcement of the provisions of this section and the need to establish a
62 hardship waiver from the provisions of this section for any restaurant
63 or caterer with a demonstrated financial hardship directly caused by the
64 provisions of this section.

65 (f) Nothing in this section shall be construed to prohibit the
66 manufacture of single-use containers in this state or the sale of such
67 single-use containers by a person other than a restaurant or caterer.

68 (g) Nothing in this section shall be construed to preempt any
69 municipal ordinance that is more restrictive than the provisions of this
70 section concerning the provision or distribution of a single-use container
71 by an owner or operator of a restaurant or catering business to a
72 consumer.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	New section
Sec. 2	<i>July 1, 2024</i>	New section

ENV *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Technical Education and Career System	GF - Cost	None	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 23 \$	FY 24 \$
Local and Regional School Districts	STATE MANDATE ¹ - Cost	None	\$2-2.8 million statewide

Explanation

The bill requires each school district, regional school district, regional vocational technical school, and constituent unit of higher education to develop a plan by July 1, 2023, to discontinue the use of expanded polystyrene trays. The plan requirement is not anticipated to result in a fiscal impact to local and regional school districts or the regional vocational technical schools, as they have staff with the purchasing experience necessary to amend existing contracts and create the plans.

To the extent that each plan's requirements are followed, the bill results in a state mandate and a statewide annual cost to local and regional school districts, including the Connecticut Technical Education

¹ State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

and Career System, of up to approximately \$2 million to \$2.8 million, beginning in FY 24, associated with discontinuing the purchase and use of the trays. The cost per district will vary by the size of the district, the number of trays used, and the specific contract. It is estimated that replacing polystyrene trays with trays made of recycled materials results in an increased cost of \$18 to \$25 for each case of 500 trays. Connecticut public schools provide 46 million lunches and 18 million breakfasts annually. While the bill does not specifically state that districts must use trays made of recycled materials, it is the most common replacement of polystyrene trays. Assuming that a tray is used for each lunch, the additional statewide cost for purchasing lunch trays made of recycled materials is approximately \$1.7 million to \$2.3 million. Assuming 50% of breakfast meals are served with a tray, the statewide cost for breakfast trays is between \$324,000 and \$450,000. The cost to each district for purchasing replacement trays will vary.

A small district serving approximately 350,000 meals will incur annual additional costs of approximately \$12,600 to \$17,500. A medium sized district serving 1.8 million meals will incur annual costs of approximately \$64,800 to \$90,000. Larger districts serving 2.5 million meals will incur annual costs of \$90,000 to \$125,000. If a district instead purchases reusable plastic trays to replace all polystyrene trays, a more significant cost results. It is estimated that reusable plastic trays average \$10-\$12 per tray. In addition to the larger one-time cost of purchasing the trays, districts would incur additional ongoing, significant costs related to staff, dishwashing equipment, plumbing, electrical, and maintenance costs.

Additionally, the bill prohibits restaurants or caterers, beginning on July 1, 2024, from providing single-use expanded polystyrene food and beverage containers to customers, with certain exceptions. It creates a graduated set of penalties for violations of the bill's provisions and allows local health districts or departments, in addition to the Departments of Consumer Protection, Health, and Energy and Environmental Protection to enforce the ban. This does not result in a fiscal impact to the state or municipalities in either FY 23 or FY 24 as the

prohibition on single-use containers begins in FY 25.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the extent of tray use among school districts.

It may also result in a minimal revenue gain to the General Fund and various municipalities to the extent, local health departments enforce the prohibition (since the bill requires half of the revenue from fines must be remitted to the municipality where the violation occurred). It is estimated that less than \$5,000 will be generated annually from violations of the bill's provisions.

OLR Bill Analysis**sSB 118*****AN ACT CONCERNING THE USE OF CERTAIN POLYSTYRENE PRODUCTS.*****SUMMARY**

This bill requires certain schools to phase out the use of expanded polystyrene trays by July 1, 2024. It applies to school districts; regional school districts; regional vocational technical schools; and the constituent units of higher education, which include UConn (all campuses) and the Connecticut State Colleges and Universities (four state universities, 12 community colleges, and Charter Oak State College) (CGS § 10a-1).

The bill also prohibits restaurants and catering businesses from providing or distributing single-use expanded polystyrene food and beverage containers to customers, beginning July 1, 2024. But its provisions do not (1) preempt a more restrictive municipal ordinance or (2) prohibit manufacturing or selling single-use expanded polystyrene containers in the state by an entity that is not a restaurant or caterer.

Under the bill, “expanded polystyrene” is blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials using a styrene monomer and processed by any number of techniques, including fusing polymer spheres and injection, foam, or extrusion molding.

EFFECTIVE DATE: Upon passage, except the provisions for restaurants and catering businesses are effective July 1, 2024.

EXPANDED POLYSTYRENE TRAYS IN SCHOOLS

The bill:

1. requires each school district, regional school district, regional

vocational technical school, and constituent unit of higher education to develop a plan by July 1, 2023, to discontinue the use of expanded polystyrene trays;

2. calls for the plans to require the districts, schools, and constituent units to (a) discontinue use of the trays by July 1, 2024, and (b) prepare to end or amend any purchasing contracts for the trays by July 1, 2023; and
3. exempts a district or school that stops using these trays before July 1, 2023, from having to develop a plan.

SINGLE-USE EXPANDED POLYSTYRENE CONTAINERS

Prohibition

Beginning July 1, 2024, the bill bans restaurants and caterers from providing or distributing single-use expanded polystyrene food and beverage containers to customers. It exempts from the ban containers (1) filled and sealed before being received by a restaurant or caterer that are sold to customers or (2) used by a butcher or store to hold raw meat.

Under the bill, a “restaurant” is a space in a suitable and permanent building that is kept, used, maintained, advertised, and held out to the public as a place where meals are regularly sold to the public (CGS § 19a-342). A “caterer” is a business involved in (1) selling or distributing food or drink prepared in bulk in one location for retail service in another location or (2) preparing and serving food in a venue that is not under the caterer’s control (CGS § 19a-36g).

Penalties and Enforcement

The bill requires that the owner or operator of a restaurant or caterer that violates the ban receive a warning for a first violation, \$200 fine for a second violation, \$500 fine for a third violation, and \$1,000 fine for a subsequent violation. A restaurant or caterer may only be issued one violation per day.

Under the bill, a local health department or health district, or the departments of Public Health (DPH), Consumer Protection (DCP), or

the Energy and Environmental Protection (DEEP), may enforce the ban. If a local health department or health district enforces it, then half of the imposed fine goes to the municipality where the violation occurred.

Required Report

By February 1, 2025, the DPH, DCP, and DEEP commissioners must jointly submit a report to the Public Health, General Law, and Environment committees on the law’s enforcement and the need to establish a hardship waiver for any restaurant or caterer with a demonstrated financial hardship directly caused by the law.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 21 Nay 10 (03/04/2022)