



A BILL FOR AN ORDINANCE

RELATING TO HEALTH.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Findings and Purpose. The purpose of this ordinance is to address health concerns related to the use of certain types of disposable food containers.

Disposable food service containers are made from various types of materials, including expanded polystyrene, a major component of which is styrene. The National Academy of Sciences has determined that styrene is a known lab animal carcinogen and is "reasonably anticipated to be a human carcinogen." Medical evidence indicates that styrene migrates from polystyrene foam containers into food and drink and subsequently stores in human fat tissue. An Environmental Protection Agency study identified styrene in the fat tissue of every man, woman, and child tested.

Expanded polystyrene is not biodegradable or compostable and persists in the environment for hundreds and possibly thousands of years. The improper disposal of these food service containers has become a blight upon and a hazard to our environment, negatively impacting our tourism-dependent economy. Polystyrene foam is a threat to our ecosystems due to its tendency to break into smaller pieces that birds and other wildlife can mistake for food and ingest.

The Council finds that to protect the health and welfare of the people, environment, and wildlife of the City and County of Honolulu, the use of polystyrene food containers must be regulated.

SECTION 2. Section 41-27.1, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 41-27.1 Definitions.

For the purposes of this article:

"Biodegradable" means material capable of being broken down by microorganisms into simple substances or basic elements.

"Chlorofluorocarbons" or "CFCs" mean the family of substances containing carbon, fluorine and chlorine. The term includes the following compounds: CFC-11, CFC-12, CFC-113, CFC-114 and CFC-115.



A BILL FOR AN ORDINANCE

"Customer" means any person purchasing food or beverages from a food vendor.

"Department" means the department of ~~[public works.]~~ environmental services."

"Expanded polystyrene foam" means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing styrene."

"Food packager" means any person, located within the City and County of Honolulu, who places meat, eggs, bakery products or other food in packaging materials for the purpose of retail sale of those products.

"Food vendor" means any restaurant, retail food vendor or nonprofit food provider.

"Nonprofit food provider" means a nonprofit corporation exempt from federal income taxation which provides prepared food as part of its services.

~~["Prepared food" means food or beverages which are:~~

- ~~(1) Served on the food vendor's premises without preparation; or~~
- ~~(2) Prepared on the food vendor's premises by cooking, chopping, slicing, mixing, brewing, freezing or squeezing.~~

~~"Prepared food" does not include any uncooked meat or eggs. Prepared food may be eaten either on or off the premises of the food vendor.]~~

~~"Polystyrene foam container" means a container [which is manufactured with the use of or contains chlorofluorocarbons.] that is made of expanded polystyrene foam.~~

"Prepared food" means food or beverages which are:

- (1) Served on the food vendor's premises without preparation; or
- (2) Prepared on the food vendor's premises by cooking, chopping, slicing, mixing, brewing, freezing or squeezing.

"Prepared food" does not include any uncooked meat, poultry, fish, or eggs. Prepared food may be eaten either on or off the premises of the food vendor."

"Restaurant" means an establishment, located within the City and County of Honolulu, which sells prepared food to be eaten by customers. "Restaurant" includes a sidewalk food vendor.



A BILL FOR AN ORDINANCE

"Retail food vendor" means a store, shop, sales outlet or other establishment, including a grocery store or a delicatessen, located within the City and County of Honolulu, which sells prepared food."

SECTION 3. Section 41-27.2, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 41-27.2 Ban on use of polystyrene foam containers.

- (a) ~~[Except if] Unless~~ exempted under Section 41-27.3, ~~[from January 1, 1990,]~~ no food vendor shall serve prepared food in any polystyrene foam container ~~[which is manufactured with the use of or contains chlorofluorocarbons. The department may require a food vendor, supplier or distributor to furnish a written statement from the manufacturer or supplier of the container used by the food vendor, indicating that use of the container is not prohibited].~~
- (b) ~~[Except if] Unless~~ exempted under Section 41-27.3, ~~[from January 1, 1990,]~~ no food packager shall package ~~[meat, eggs,]~~ prepared food, bakery products or other food in any polystyrene foam container ~~[which is manufactured with the use of or contains chlorofluorocarbons].~~ The department may require the manufacturer or supplier of the container used by the food packager to furnish a written statement from the manufacturer of the packaging, indicating that ~~[use of] the container is not [prohibited.]~~ a polystyrene foam container."

SECTION 4. Section 41-27.3, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 41-27.3 Exemptions.

~~[The department may exempt a food vendor or food packager from compliance with the prohibition of Section 41-27.2 until December 31, 1990.]~~ The department may grant an exemption from compliance with the prohibitions of Section 41-27.2 upon application and a showing by the applicant that compliance with the prohibition would cause undue hardship. "Undue hardship" shall be construed to include, but not be limited to:

- (a) Situations where there are no acceptable alternatives to packaging with polystyrene foam containers for reasons ~~[which]~~ that are unique to the applicant;
or



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____
BILL 4(2018)

A BILL FOR AN ORDINANCE

- (b) Situations where compliance with the prohibition would deprive a person of a legally protected right [~~or where the product containing GFCs was purchased prior to the effective date of the ordinance codified in this article~~]."

SECTION 5. Section 41-27.5, Revised Ordinances of Honolulu 1990, as amended ("Enforcement"), is amended by amending subsection (c) to read as follows:

- "(c) Enforcement and administration of this article [~~shall be~~] are under the jurisdiction of the department [~~of public works~~] of environmental services. Enforcement of this article [~~shall also be~~] is also under the jurisdiction of the Honolulu police department."

SECTION 6. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 4(2018)

A BILL FOR AN ORDINANCE

SECTION 7. This ordinance takes effect on January 1, 2020.

INTRODUCED BY:

Kimberly Poze

DATE OF INTRODUCTION:

JAN 25 2018

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu

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FILED
JAN 25 2020
PURSUANT TO ROH Sec. 1-2.4