

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

S.113

Introduced by Senators Bray, Balint, Campion, Clarkson, Hardy, Lyons,
Pollina and Sirotkin

Referred to Committee on Natural Resources and Energy

Date: February 20, 2019

Subject: Conservation and development; solid waste; plastic bags

Statement of purpose of bill as introduced: This bill proposes to prohibit food service establishments from providing plastic carryout bags, expanded polystyrene food service products, and plastic straws to customers. It also proposes to require the Agency of Natural Resources to convene a working group to assess the progress of municipal implementation of single-use carryout plastic bag bans. The working group would report back by January 15, 2020 with recommendations.

~~An act relating to the prohibition of plastic carryout bags, expanded polystyrene, and single-use plastic straws.~~

An act relating to the management of single-use products

It is hereby enacted by the General Assembly of the State of Vermont:

~~Section 1-10 V.S.A. chapter 159, subchapter 5 is added to read:~~

~~Subchapter 5. Single-Use Carryout Bags; Expanded Polystyrene~~

~~Food Service Products; Single-use Plastic Straws~~

1 § 6601. DEFINITIONS

2 Terms used in this subchapter:

3 (1) “Agency” means the Agency of Natural Resources.

4 (2) “Carryout bag” means a bag provided by a store or food service
5 establishment to a customer at the point of sale for the purpose of carrying
6 groceries or retail goods.

7 (3) “Disability,” with respect to an individual, has the same meaning as
8 in 9 V.S.A. § 4501.

9 (4) “Expanded polystyrene” means blown polystyrene and expanded
10 and extruded foams that are thermoplastic petrochemical materials utilizing a
11 styrene monomer and processed by a number of techniques, including fusion
12 of polymer spheres (expandable bead polystyrene), injection molding, foam
13 molding, and extrusion-blow molding (extruded foam polystyrene).

14 (5) “Expanded polystyrene food service product” means a product
15 made, in whole or in part, of expanded polystyrene that is used for selling or
16 providing a food or beverage, and includes a food container, plate, hot or cold
17 beverage cup, meat or vegetable tray, or egg carton. Expanded polystyrene
18 food service product shall not include a product used to package raw,
19 uncooked, or butchered meat, fish, poultry, or seafood for off-premises
20 consumption.

1 ~~(c) "Food service establishment" has the same meaning as in 18 V.S.A.~~
2 ~~§ 4301.~~

3 (7) "Plastic" means a synthetic material made from linking monomers
4 through a chemical reaction to create a polymer chain that can be molded or
5 extruded at high heat into various solid forms that retain their defined shapes
6 during their life cycle and after disposal.

7 (8) "Secretary" means the Secretary of Natural Resources.

8 (9) "Single-use" means a product that is designed and intended to be
9 used only once for drinking or eating and is generally recognized by the public
10 as an item that is to be discarded after one use.

11 (10) "Store" means grocery store, supermarket, convenience store,
12 liquor store, pharmacy, drug store, or other retail establishment that has over
13 1,000 square feet of retail space and that provides carryout bags to its
14 customers.

15 § 6692. PROHIBITION OF PRODUCTS

16 (a) No store or food service establishment shall provide a plastic carryout
17 bag to a customer.

18 (b) No person shall sell or offer for sale any expanded polystyrene food
19 service product.

20 (c) No food service establishment shall sell or provide any food in an
21 ~~expanded polystyrene food service product.~~

1 ~~(d) No food service establishment shall sell or provide a single-use plastic~~
2 ~~straw to a customer, except that a food service establishment shall provide a~~
3 ~~single-use plastic straw to a person who requests a single-use plastic straw due~~
4 ~~to a disability or medical condition.~~

5 § 6693. CIVIL PENALTIES; WARNING

6 (a) A person who violates the requirements of this subchapter shall:

7 (1) receive a written warning for a first offense

8 (2) be subject to a civil penalty of \$25.00 for a second offense; and

9 (3) be subject to a civil penalty of \$100.00 for a third or subsequent
10 offense.

11 (b) For the purposes of enforcement under this subchapter, an offense shall
12 be each day a person is violating the requirement of this subchapter.

13 § 6694. RULEMAKING

14 The Secretary may adopt rules as may be necessary to implement,
15 administer, or enforce the requirements of this subchapter.

16 Sec. 2. PLASTIC BAG BAN WORKING GROUP; REPORT

17 (a) The Secretary of Natural Resources or designee shall form the Plastic
18 Bag Ban Working Group that shall evaluate the implementation of plastic bag
19 bans adopted by the State and by municipalities. The Working Group shall
20 include representatives from the Vermont League of Cities and Towns, the
21 Vermont Retail and Grocer's Association, municipalities that have

1 ~~implemented a plastic bag ban, and a solid waste hauler. The working group~~

2 shall:

3 (1) offer an opportunity for submission of information from interested
4 parties, including local businesses and environmental organizations, regarding
5 implementation of plastic bag bans adopted by the State and municipalities;

6 and

7 (2) make recommendation to enhance the implementation of Statewide
8 ban on single-use plastic materials, including those materials regulated under
9 Section 1 of this act.

10 (b) On or before January 15, 2020, the Secretary of Natural Resources shall
11 submit to the House Committee on Natural Resources, Fish, and Wildlife and
12 the Senate Committee on Natural Resources and Energy a report assessing
13 State and municipal success in implementing plastic bag bans.

14 Sec. 3. EFFECTIVE DATES

15 (a) This section and Sec. 2 (Municipal Plastic Bag Ban Working Group)
16 shall take effect on passage.

17 (b) Sec. 1 (prohibition on single-use carryout bags; containers; straws)
18 shall take effect on July 1, 2020.

Sec. 1. 10 V.S.A. chapter 159, subchapter 5 is added to read:

*Subchapter 5. Single-Use Carryout Bags; Expanded Polystyrene Food Service
Products; Single-use Plastic Straws*

§ 6691. DEFINITIONS

As used in this subchapter:

(1) “Agency” means the Agency of Natural Resources.

(2) “Carryout bag” means a bag provided by a store or food service establishment to a customer at the point of sale for the purpose of carrying groceries or retail goods, except that a “carryout bag” shall not mean a bag provided by a pharmacy to a customer purchasing a prescription medication.

(3) “Expanded polystyrene” means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by a number of techniques, including: fusion of polymer spheres, known as expandable bead 20 polystyrene; injection molding; foam molding; and extrusion–blow molding, also known as extruded foam polystyrene.

(4)(A) “Expanded polystyrene food service product” means a product made of expanded polystyrene that is:

(i) used for selling or providing food or beverages and intended by the manufacturer to be used once for eating or drinking; or

(ii) generally recognized by the public as an item to be discarded after one use.

(B) “Expanded polystyrene food service product” shall include:

(i) food containers;

(ii) plates;

(iii) hot and cold beverage cups;

(iv) trays; and

(v) cartons for eggs or other food.

(C) “Expanded polystyrene food service product” shall not include:

(i) food or beverages that have been packaged in expanded polystyrene outside the State before receipt by a food service establishment or store;

(ii) a product made of expanded polystyrene that is used to package raw, uncooked, or butchered meat, fish, poultry, or seafood; or

(iii) nonfoam polystyrene food service products.

(5) “Food service establishment” has the same meaning as in 18 V.S.A. § 4301.

(6) “Plastic” means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes

during their life cycle and after disposal.

(7) "Reusable carryout bag" means a carryout bag that is specifically designed and manufactured for multiple reuse and that is:

(A) made of cloth or other machine-washable fabric that has handles;

(B) a nonwoven polypropylene bag that has handles; ~~or~~

(C) a durable plastic bag that has handles and is at least 2.25 mils thick; or

(D) made of paper or other material that is not plastic, has handles, and has a thickness of 2.25 mils or more.

(8) "Secretary" means the Secretary of Natural Resources.

(9) "Single-use paper carryout bag" means a carryout bag made of paper or other material that is not plastic that has a thickness of less than 2.25 mils and that is not a reusable grocery bag.

(10) "Single-use plastic carryout bag" means a carryout bag made of plastic, that has a thickness of less than 2.25 mils and that is not a reusable ~~grocery~~ carryout bag.

(11) "Single-use plastic straw" means a tube made of plastic that is:

(A) used to transfer liquid from a container to the mouth of a person drinking the liquid;

(B) designed and intended to be used only once; and

(C) generally recognized by the public as an item that is to be discarded after one use.

(12) "Store" means a grocery store, supermarket, convenience store, liquor store, drycleaner, pharmacy, drug store, or other retail establishment that has over 1,000 square feet of retail space and that provides carryout bags to its customers.

§ 6692. SINGLE-USE PLASTIC CARRYOUT BAGS; PROHIBITION

A store or food service establishment shall not provide a single-use plastic carryout bag to a customer.

§ 6693. SINGLE-USE PAPER CARRYOUT BAG

(a) A store or food service establishment retail may provide a single-use paper carryout bag at the point of sale, if the single-use paper carryout bag is provided to the consumer ~~at no cost~~ for a charge of not less than ~~\$0.10~~ \$0.05 per bag.

(b) All monies collected by a store or food service establishment under this section for provision of a single-use paper carryout bag shall be retained by the store or food service establishment.

§ 6694. SINGLE-USE PLASTIC STRAWS

A food service establishment shall not sell or provide a single-use plastic straw to a customer; except that a food service establishment shall provide a single-use plastic straw to a person upon request.

§ 6695. EXPANDED POLYSTYRENE FOOD SERVICE PRODUCTS

(a) A person shall not sell or offer for sale in the State an expanded polystyrene food service product.

(b) A store or food service establishment shall not sell or provide food or beverages in an expanded polystyrene food service product.

(c) This section shall not prohibit a person from storing or packaging a food or beverage in an expanded polystyrene food service product for distribution out of State.

§ 6696. CIVIL PENALTIES; WARNING

(a) A person who violates the requirements of this subchapter shall:

(1) receive a written warning for a first offense

(2) be subject to a civil penalty of \$25.00 for a second offense; and

(3) be subject to a civil penalty of \$100.00 for a third or subsequent offense.

(b) For the purposes of enforcement under this subchapter, an offense shall be each day a person is violating the requirement of this subchapter.

§ 6697. RULEMAKING

The Secretary may adopt rules to implement the requirements of this subchapter.

Sec. 2. SINGLE-USE PRODUCTS WORKING GROUP; REPORT

(a) Definitions. As used in this section:

(1) "Carryout bag" means a bag provided by a store or food service establishment to a customer at the point of sale for the purpose of carrying groceries or retail goods.

(2) "Disposable plastic food service ware" means nonrecyclable containers, plates, clamshells, serving trays, meat and vegetable trays, hot and cold beverage cups, and utensils that are made of plastic or plastic-coated

paper, including products marketed as biodegradable products but a portion of the product is not compostable.

(3) “Expanded polystyrene food service product” means a product made of expanded polystyrene that is:

(A) used for selling or providing food or beverages and intended by the manufacturer to be used once for eating or drinking; or

(B) generally recognized by the public as an item to be discarded after one use.

(4) “Extended producer responsibility” means a requirement for a producer of a product to provide for and finance the collection, transportation, reuse, recycling, processing, and final management of the product.

(5) “Food service establishment” has the same meaning as in 18 V.S.A. § 4301.

(6) “Packaging” means materials that are used for the containment, protection, handling, delivery, and presentation of goods sold or delivered in Vermont.

(7) “Plastic” means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal.

(8) “Printed materials” means material that is not packaging, but is printed with text or graphics as a medium for communicating information, including telephone books but not including other bound reference books, bound literary books, or bound textbooks.

(9) “Single-use” means a product that is designed and intended to be used only once and is generally recognized by the public as an item that is to be discarded after one use.

(10) “Single-use products” means single-use carryout bags, single-use packaging, single-use disposable plastic food service ware, expanded polystyrene food service products, printed materials, and other single-use plastics or single-use products that are provided to consumers by stores, food service establishments, or other retailers.

(11) “Store” means grocery store, supermarket, convenience store, liquor store, pharmacy, drycleaner, drug store, or other retail establishment.

(12) “Unwanted” means when a person in possession of a product intends to abandon or discard the product.

(b) Creation. There is created the Single-Use Products Working Group to:

(1) evaluate current State and municipal policy and requirements for the management of unwanted single-use products; and

(2) recommend to the Vermont General Assembly policy or requirements that the State should enact to improve statewide management of single-use products, divert single-use products from disposal in landfills, and prevent contamination of natural resources by discarded single-use products.

(c) Membership. The Single-Use Products Working Group shall be composed of the following members:

(1) a member of the Senate appointed by the Committee on Committees;

(2) a member of the House of Representatives appointed by the Speaker of the House;

(3) the Secretary of Natural Resources or designee;

(4) a representative from a single-stream materials recovery facility located in Vermont appointed by the Governor;

(5) two representatives from solid waste management entities in the State appointed by the Committee on Committees;

(6) one representative from the Vermont League of Cities and Towns appointed by the Speaker of the House;

(7) one representative of an association or group representing manufacturers or distributors of single-use products appointed by the Governor;

(8) one representative of an environmental advocacy group located in the State appointed by the Speaker of the House; and

(9) two representatives of stores or food service establishments in the State appointed by the Committee on Committees.

(d) Powers and duties. The Single-Use Products Working Group shall:

(1) Evaluate the success of existing State and municipal requirements for the management of unwanted single-use products, including a lifecycle analysis of the management of single-use products from production to ultimate disposition.

(2) Evaluate the availability and utility of compostable, single-use products.

(3) Estimate the cost to the State and municipalities of management of

unwanted single-use products.

(4) Estimate other costs of the management or failure to manage unwanted single-use products, including the effects on landfill capacity.

(5) Summarize the effects on the environment and natural resources of failure to manage single-use products appropriately, including the propensity to create litter and the effects on human health from toxic substances that originate in unwanted single-use products.

(6) Recommend methods or mechanisms for improving the lifecycle management of single-use products in the State, including whether the State should establish extended producer responsibility requirements for manufacturers, distributors, or brand owners of single-use products.

(7) If extended producer responsibility requirements for single-use products are recommended under subdivision (5) of this subsection, recommend:

(A) The single-use products to be included under the requirements.

(B) A financial incentive for manufacturers, distributors, or brand owners of single-use products to minimize the environmental impacts of the products in Vermont. The environmental impacts considered shall include review of the effect on climate change of the production, use, transport, and recovery of single-use products.

(C) How to structure a requirement for manufacturers, distributors, or brand owners to provide for or finance the collection, processing, and recycling of single-use products using existing infrastructure in the collection, processing, and recycling of products where feasible.

(8) An estimate of the costs and benefits of any recommended method or mechanism for improving the management of single-use products in the State.

(e) Assistance. The Single-Use Products Working Group shall have the administrative, technical, financial, and legal assistance of the Agency of Natural Resources, the Department of Health, the Office of Legislative Council, and the Joint Fiscal Office.

(f) Report. On or before December 1, 2019, the Single-Use Products Working Group shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife the findings and recommendations required under subsection (d) of this section.

(g) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Single-Use Products Working Group to occur on or before July 1, 2019.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Working Group shall cease to exist on February 1, 2020.

(h) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Working Group serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings.

(2) Other members of the Working Group shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings.

(3) Payments to members of the Working Group authorized under this subsection shall be made from monies appropriated to the General Assembly.

Sec. 3. EFFECTIVE DATES

(a) This section and Sec. 2 (working group) shall take effect on passage.

(b) Sec. 1 (single-use products) shall take effect July 1, 2020.