

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Natural Resources, Fish, and Wildlife to which was
3 referred Senate Bill No. 113 entitled “An act relating to the management of
4 single-use products” respectfully reports that it has considered the same and
5 recommends that the House propose to the Senate that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

8 Sec. 1. PURPOSE

9 It is the purpose of this act to:

10 (1) mitigate the harmful effects of single-use products on Vermont’s
11 municipalities and natural resources; and

12 (2) relieve the pressure for landfills to manage the disposition of single-
13 use products.

14 Sec. 2. 10 V.S.A. chapter 159, subchapter 5 is added to read:

15 Subchapter 5. Single-Use Carryout Bags; Expanded Polystyrene Food
16 Service Products; Single-use Plastic Straws; and Single-use Plastic Stirrers

17 § 6691. DEFINITIONS

18 As used in this subchapter:

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

20 (2) “Carryout bag” means a bag provided by a store or food service
21 establishment to a customer at the point of sale for the purpose of transporting

1 groceries or retail goods, except that a “carryout bag” shall not mean:

2 (A) a bag provided by a pharmacy to a customer purchasing a
3 prescription medication; or

4 (B) a bag in which loose produce or products are placed by a
5 consumer or a store employee to deliver the produce or products to the point of
6 sale.

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

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

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

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

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

20 (i) food containers;

21 (ii) plates;

1 (iii) hot and cold beverage cups;

2 (iv) trays; and

3 (v) cartons for eggs or other food.

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

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

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

10 (iii) nonfoam polystyrene food service products.

11 (5) “Food service establishment” has the same meaning as in 18 V.S.A.
12 § 4301.

13 (6) “Plastic” means a synthetic material made from linking monomers
14 through a chemical reaction to create a polymer chain that can be molded or
15 extruded at high heat into various solid forms that retain their defined shapes
16 during their life cycle and after disposal, including material derived from either
17 petroleum or a biologically based polymer, such as corn or other plant sources.

18 (7) “Point of sale” means a check-out stand, cash register, or other point
19 of departure from a store or food service establishment, including the location
20 where remotely ordered food or products are delivered to a purchaser.

21 (8) “Reusable carryout bag” means a carryout bag that is designed and

1 manufactured for multiple uses and is:

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

4 (B) a polypropylene bag that has stitched handles.

5 (9) “Secretary” means the Secretary of Natural Resources.

6 (10) “Single-use plastic carryout bag” means a carryout bag that is:

7 (A) made of plastic;

8 (B) a single use product; and

9 (C) not a reusable carryout bag.

10 (11) “Single-use plastic stirrer” means a device that is:

11 (A) used to mix beverages;

12 (B) made predominantly of plastic; and

13 (C) a single-use product.

14 (12) “Single-use plastic straw” means a tube made of plastic that is:

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

16 drinking the liquid; and

17 (B) is a single-use product.

18 (13) “Single-use product” or “single use” means a product designed and
19 manufactured to be used only once and is generally recognized by the public as
20 an item that is to be discarded after one use.

21 (14) “Single-use, recyclable paper carryout bag” means a carryout bag

1 made of paper that:

2 (A) contains at least 40 percent post-consumer recycled material;

3 (B) is 100 percent recyclable; and

4 (C) is a single-use product.

5 (15) “Store” means a grocery store, supermarket, convenience store,
6 liquor store, drycleaner, pharmacy, drug store, or other retail establishment that
7 provides carryout bags to its customers.

8 § 6692. SINGLE-USE PLASTIC CARRYOUT BAGS; PROHIBITION

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

11 § 6693. SINGLE-USE, RECYCLABLE PAPER CARRYOUT BAG

12 (a) A store or food service establishment may, upon request, provide a
13 consumer a carryout bag made of paper at the point of sale if the bag is a
14 single-use, recyclable paper carryout bag.

15 (b) A store or food service establishment may charge for the provision of a
16 single-use, recyclable paper carryout bag, provided that if a charge is assessed,
17 the amount of the charge shall not be less than \$0.10 per bag.

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

21 § 6694. SINGLE-USE PLASTIC STRAWS

1 (a) A food service establishment shall not provide a single-use plastic straw
2 to a customer, except that a food service establishment may provide a straw to
3 a person upon request.

4 (b) The prohibition on sale or provision of a single-use plastic straw under
5 subsection (a) of this section shall not apply to:

6 (1) a hospital licensed under 18 V.S.A. chapter 43;

7 (2) a nursing home, residential care home, assisted living residence,
8 home for the terminally ill, or therapeutic community, as those terms are
9 defined in 33 V.S.A. chapter 71; or

10 (3) an independent living facility as that term is defined in 32 V.S.A.
11 chapter 225.

12 (c) This section shall not alter the requirements of 9 V.S.A. chapter 139
13 regarding the provision of services by a place of public accommodation.

14 § 6695. SINGLE-USE PLASTIC STIRRERS

15 A food service establishment shall not provide a single-use plastic stirrer to
16 a customer.

17 § 6696. EXPANDED POLYSTYRENE FOOD SERVICE PRODUCTS

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

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

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

4 § 6697. CIVIL PENALTIES; WARNING

5 (a) A person, store, or food service establishment that violates the
6 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, store, or food service establishment is violating the
13 requirement of this subchapter.

14 § 6698. RULEMAKING

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

17 § 6699. APPLICATION TO MUNICIPAL BYLAWS, ORDINANCES, OR

18 CHARTERS; PREEMPTION

19 (a) The General Assembly finds that the requirements of this chapter are of
20 statewide interest and shall be applied uniformly in the State and shall occupy
21 the entire field of regulation of single-use plastic carryout bags, single-use,

1 recyclable paper carryout bag, single-use plastic straws, single-use plastic
2 stirrers, and expanded polystyrene food service products.

3 (b) A municipal ordinance, bylaw, or charter adopted or enacted before
4 July 1, 2020 that regulates or addresses the use, sale, or provision of single-use
5 plastic carryout bags, single-use paper carryout bags, single-use plastic straws,
6 single-use plastic stirrers, or expanded polystyrene food service products is
7 preempted by the requirements of this subchapter and a municipality shall not
8 enforce or otherwise implement the ordinance, bylaw, or charter.

9 Sec. 3. SINGLE-USE PRODUCTS WORKING GROUP; REPORT

10 (a) Creation; purpose. There is created the Single-Use Products Working
11 Group to:

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

14 (2) recommend to the Vermont General Assembly policy or
15 requirements that the State should enact to:

16 (A) reduce the use of single-use products;

17 (B) reduce the environmental impact of single-use products;

18 (C) improve statewide management of single-use products;

19 (D) divert single-use products from disposal in landfills; and

20 (E) prevent contamination of natural resources by discarded single-
21 use products.

1 (b) Definitions. As used in this section:

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

5 (2) “Disposable plastic food service ware” means containers, plates,
6 clamshells, serving trays, meat and vegetable trays, hot and cold beverage
7 cups, cutlery, and other utensils that are made of plastic or plastic-coated
8 paper, including products marketed as biodegradable products but a portion of
9 the product is not compostable.

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

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

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

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

19 (5) “Food service establishment” has the same meaning as in 18 V.S.A.
20 § 4301.

21 (6) “Packaging” means materials that are used for the containment,

1 protection, handling, delivery, and presentation of goods sold or delivered in
2 Vermont.

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) “Point of sale” means a check-out stand, cash register, or other point
8 of departure from a store or food service establishment, including the location
9 where remotely ordered food or products are delivered to a purchaser.

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

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

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

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

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

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

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

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

11 (3) the Secretary of Natural Resources or designee;

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

14 (5) one representative from a solid waste management entity in the
15 State, appointed by the Committee on Committees;

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

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

20 Governor;

21 (8) one representative of an environmental advocacy group located in

1 the State that advocates for the reduction of solid waste and the protection of
2 the environment appointed by the Speaker of the House; and

3 (9) one representative of stores or food service establishments in the
4 State, appointed by the Committee on Committees.

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

6 (1) Evaluate the success of existing State and municipal requirements
7 for the management of unwanted single-use products.

8 (2) Estimate the effects on landfill capacity of single-use products that
9 can be recycled, but are currently being disposed.

10 (3) Recommend methods or mechanisms to address the effects on
11 landfill capacity of single-use products that can be recycled, but are currently
12 being disposed, in order to improve the management of single-use products in
13 the State, including whether the State should establish extended producer
14 responsibility or similar requirements for manufacturers, distributors, or
15 brand owners of single-use products.

16 (4) If extended producer responsibility or similar requirements for
17 single-use products are recommended under subdivision (3) of this
18 subsection, recommend:

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

20 (B) A financial incentive for manufacturers, distributors, or brand
21 owners of single-use products to minimize the environmental impacts of the

1 products in Vermont. The environmental impacts considered shall include
2 review of the effect on climate change of the production, use, transport, and
3 recovery of single-use products.

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

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

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

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

20 (g) Meetings.

21 (1) The Office of Legislative Council shall call the first meeting of the

1 Single-Use Products Working Group to occur on or before July 1, 2019.

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

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

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

6 (h) Compensation and reimbursement.

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

12 (2) Other members of the Working Group shall be entitled to per diem
13 compensation and reimbursement of expenses as permitted under 32 V.S.A.
14 § 1010 for not more than six meetings.

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

17 Sec. 4. ANR REPORT ON LANDFILL OPERATION IN THE STATE

18 As part of the Biennial Report on Solid Waste required under 10 V.S.A.
19 § 6604(b) to be submitted to the General Assembly in 2021, the Secretary of
20 Natural Resources shall include a feasibility study addressing issues related to
21 the opening of a second landfill in the State. The report shall include:

1 (1) An assessment of the capacity of the two sites in the State that are
2 currently permitted and certified for landfill operation, but are not in operation,
3 to receive solid waste.

4 (2) An evaluation of the environmental costs of continuing to truck solid
5 waste to a single landfill located in the northeast corner of the State. This
6 evaluation shall include the amount of greenhouse gases emitted over the
7 course of a year from trucks making round trips to the existing landfill in
8 Vermont. The evaluation shall also include an estimate of the impact that
9 trucking to the one landfill in the State is having annually on the State
10 transportation infrastructure.

11 (3) An estimate of the timeframe to physically activate either one or
12 both of the sites in the State that are currently permitted and certified for
13 landfill operation, but are not in operation, to receive solid waste.

14 (4) An estimate of the timeframe to locate and operate an additional
15 solid waste landfill in the State.

16 Sec. 5. EFFECTIVE DATES

17 (a) This section, Sec. 1 (purpose), Sec. 3 (single-use working group), and
18 Sec. 4 (landfill report) shall take effect on passage.

19 (b) Sec. 2 (single-use products) shall take effect July 1, 2020.

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE