

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

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 a bag
2 provided by a pharmacy to a customer purchasing a prescription medication.

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

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

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

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

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

16 (i) food containers;

17 (ii) plates;

18 (iii) hot and cold beverage cups;

19 (iv) trays; and

20 (v) cartons for eggs or other food.

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

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

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

6 (iii) nonfoam polystyrene food service products.

7 (5) “Food service establishment” has the same meaning as in 18 V.S.A.
8 § 4301.

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

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

17 (8) “Reusable carryout bag” means a carryout bag that is specifically:

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

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

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

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

2 (A) made of plastic;

3 (B) a single use product; and

4 (C) not a reusable carryout bag.

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

6 (A) used to mix beverages;

7 (B) made predominantly of plastic; and

8 (C) a single-use product.

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

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

12 (B) is a single-use product.

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

16 (14) “Single-use, recyclable paper carryout bag” means a carryout bag
17 made of paper that:

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

19 (B) is 100 percent recyclable; and

20 (C) is a single-use product.

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

4 § 6692. SINGLE-USE PLASTIC CARRYOUT BAGS; PROHIBITION

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

7 § 6693. SINGLE-USE, RECYCLABLE PAPER CARRYOUT BAG

8 (a) A store or food service establishment may provide a carryout bag made
9 of paper at the point of sale if the bag is a single-use, recyclable paper carryout
10 bag provided to the consumer for a charge of not less than \$0.10 per bag.

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

14 § 6694. SINGLE-USE PLASTIC STRAWS

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

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

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

21 (2) a nursing home, residential care home, assisted living residence,

1 home for the terminally ill, or therapeutic community, as those terms are
2 defined in 33 V.S.A. chapter 71; or

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

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

7 § 6695. SINGLE-USE PLASTIC STIRRERS

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

10 § 6696. EXPANDED POLYSTYRENE FOOD SERVICE PRODUCTS

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

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

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

18 § 6697. CIVIL PENALTIES; WARNING

19 (a) A person, store, or food service establishment that violates the
20 requirements of this subchapter shall:

21 (1) receive a written warning for a first offense;

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

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

4 (b) For the purposes of enforcement under this subchapter, an offense shall
5 be each day a person, store, or food service establishment is violating the
6 requirement of this subchapter.

7 § 6698. RULEMAKING

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

10 § 6699. APPLICATION TO MUNICIPAL BYLAWS, ORDINANCES, OR

11 CHARTERS; PREEMPTION

12 (a) The General Assembly finds that the requirements of this chapter are of
13 statewide interest and shall be applied uniformly in the State and shall occupy
14 the entire field of regulation of single-use plastic carryout bags, single-use
15 paper carryout bags, single-use plastic straws, single-use plastic stirrers, and
16 expanded polystyrene food service products.

17 (b) A municipal ordinance, bylaw, or charter adopted or enacted before
18 July 1, 2020 that regulates or addresses the use, sale, or provision of single-use
19 plastic carryout bags, single-use paper carryout bags, single-use plastic straws,
20 single-use plastic stirrers, or expanded polystyrene food service products is
21 preempted by the requirements of this subchapter and a municipality shall not

1 enforce or otherwise implement the ordinance, bylaw, or charter.

2 **Sec. 3. SINGLE-USE PRODUCTS WORKING GROUP; REPORT**

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

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

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

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

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

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

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

13 (E) prevent contamination of natural resources by discarded single-
14 use products.

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

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

19 (2) “Disposable plastic food service ware” means containers, plates,
20 clamshells, serving trays, meat and vegetable trays, hot and cold beverage
21 cups, cutlery, and other utensils that are made of plastic or plastic-coated

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

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

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

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

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

12 (5) “Food service establishment” has the same meaning as in 18 V.S.A.
13 § 4301.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (5) two representatives from solid waste management entities in the
9 State, one of whom shall be appointed by the Speaker of the House and one
10 of whom shall be appointed by the Committee on Committees;

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

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

16 (8) one representative of an environmental advocacy group located in
17 the State that advocates for the reduction of solid waste and the protection of
18 the environment appointed by the Speaker of the House;

19 (9) one representative of an environmental advocacy group located in
20 the State that advocates for water quality improvement and protection of the
21 environment appointed by the Committee on Committees; and

1 (10) two representatives of stores or food service establishments in the
2 State, one of whom shall be appointed by the Governor and one of whom
3 shall be appointed by the Committee on Committees.

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

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

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

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

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

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

19 (B) A financial incentive for manufacturers, distributors, or brand
20 owners of single-use products to minimize the environmental impacts of the
21 products in Vermont. The environmental impacts considered shall include

1 review of the effect on climate change of the production, use, transport, and
2 recovery of single-use products.

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

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

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

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

19 (g) Meetings.

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

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

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

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

5 (h) Compensation and reimbursement.

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

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

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

16 Sec. 4. EFFECTIVE DATES

17 (a) This section and Sec. 3 (working group) shall take effect on passage.

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

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE