

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2015 Legislative Session

Bill No. CB-5-2015
 Chapter No. 6
 Proposed and Presented by Council Members Lehman, Glaros and Taveras
 Introduced by Council Members Lehman, Glaros and Taveras
 Co-Sponsors _____
 Date of Introduction April 7, 2015

BILL

1 AN ACT concerning

2 Expanded Polystyrene Ban

3 For the purpose of defining relevant terms; prohibiting the sale or provision of certain expanded
 4 polystyrene food service products by food service businesses; prohibiting the sale or provision of
 5 polystyrene loose fill packaging; providing for education and outreach; providing for exemptions
 6 to the ban; providing for enforcement; and generally regarding expanded polystyrene and
 7 environmentally acceptable food service products and packaging materials.

8 WHEREAS, expanded polystyrene is a petroleum-derived plastic-like material used
 9 for food service ware. The foam form, known as expanded polystyrene is commonly used
 10 to make disposable plates, cups, bowls and other items; and

11 WHEREAS, approximately 1 million tons of expanded polystyrene plates, cups and other
 12 food ware are disposed of in the United States every year; and

13 WHEREAS, the National Research Council has recently upheld the listing of polystyrene
 14 “reasonably anticipated to be a human carcinogen;“ and

15 WHEREAS, expanded polystyrene is a pollutant found in our watersheds. The County is
 16 under an Environmental Protection Agency mandate to remove 170,628 pounds of trash from the
 17 Anacostia Watershed by the end of 2018 and set benchmarks for 2015 and 2017 (which are
 18 tentatively set for 62,000 pounds of trash in 2015 and 125,000 in 2017); and

19 WHEREAS, expanded polystyrene is not commonly recycled because of food
 20 contamination concerns and expanded polystyrene’s high volume to weight ratio complicates
 21 transportation of the material. The Environmental Protection Agency estimates that less than one

1 percent of all polystyrene produced in the United States is recycled; and

2 WHEREAS, environmentally friendly and cost effective alternatives to the use of expanded
3 polystyrene are available, such as: reusable equipment (trays, cups and silverware) and the use
4 of paper and other products made from recycled content and which are also compostable,
5 biodegradable, and/or recyclable; and

6 WHEREAS, the regional jurisdictions of the District of Columbia and Montgomery
7 County have established an expanded polystyrene ban in their respective jurisdictions.

8 BY adding:

9 SUBTITLE 19. POLLUTION.

10 Sections 19-139, 19-140, 19-141,

11 19-142, 19-143, and 19-144,

12 The Prince George's County Code

13 (2011 Edition; 2014 Supplement).

14 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
15 Maryland, that Sections 19-139, 19-140, 19-141, 19-142, 19-143, and 19-144, of the
16 Prince George's County Code be and the same are hereby added:

17 SUBTITLE 19. POLLUTION.

18 DIVISION 5. EXPANDED POLYSTYRENE BAN.

19 **Sec. 19-139. Definitions.**

20 (a) For the purposes of this Act, the following terms shall mean:

21 (1) **Expanded polystyrene** means blown polystyrene and expanded and
22 extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and
23 processed by a number of techniques, including fusion of polymer spheres (expandable bead
24 polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam
25 polystyrene).

26 (2) **Expanded polystyrene food service products** means food containers,
27 plates, hot and cold beverage cups, meat and vegetable trays, egg cartons and other products
28 made of expanded polystyrene and used for selling, providing, or serving foods that are intended
29 by the manufacturer to be used once for eating or drinking or generally recognized by the public
30 as items to be discarded after one use.

31 (3) **Food Service business** means a full-service restaurant, limited-service restaurant,

1 fast food restaurant, café, delicatessen, coffee shop, supermarket, grocery store, vending truck or
 2 cart, food truck, business or institutional cafeteria, including those operated by or on behalf of
 3 County departments and agencies, and other business selling or providing food within the
 4 County for consumption on or off the premises.

5 **(4) Polystyrene loose fill packaging** means a void-filling packaging product
 6 made of expanded polystyrene that is used as packaging fill. Polystyrene loose fill packaging is
 7 commonly referred to as packing peanuts.

8 **Sec. 19-140. Prohibition on sale or provision of expanded polystyrene food service**
 9 **products and polystyrene loose fill packaging.**

10 (a) A food service business shall not sell or provide food in expanded
 11 polystyrene food service products, regardless of where the food will be consumed.

12 (b) Subsection (a) shall not apply to prepackaged soup or other food that a food
 13 service business sells or otherwise provides to its customers in expanded polystyrene containers
 14 that have been filled and sealed prior to receipt by the food service business.

15 (c) Subsection (a) shall not apply to food or beverages that were filled and sealed in
 16 expanded polystyrene containers outside of the County before a food service business received
 17 them, or

18 (d) to materials used to package raw, uncooked or butchered meat, fish, poultry, or
 19 seafood for off-premises consumption.

20 (e) A person shall not sell or offer for sale in the County polystyrene loose fill
 21 packaging.

22 **Sec. 19-141. Education and Outreach.**

23 (a) The Department of Environment shall conduct an education and outreach campaign
 24 before and during implementation of the provisions of this Act. This campaign should
 25 include:

26 (1) Informational mailers to and direct contact with affected businesses; and

27 (2) Distribution of information through County internet and web-based resources; and

28 (3) News releases and news events,

29 **Sec. 19-142. Prohibition on Sale.**

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

1 (b) A person shall not sell or offer for sale in the County polystyrene loose fill packaging.

2 **Sec. 19-143. Exemptions and Temporary Waiver.**

3 (a) The Director may, consistent with this subtitle, waive any specific requirements
4 of for a period of up to one year if a food service business demonstrates that strict application of
5 the requirements would create an undue hardship or practical difficulty not generally applicable
6 to other food service businesses in similar circumstances

7 **Sec. 19-144. Enforcement.**

8 (a) No person or entity shall willfully violate any provision of this Act. The violation of
9 any such prohibited or unlawful act or offense, or a misdemeanor, shall be punished with a
10 warning for a first time violation, \$250 fine for a second time violation, and by a fine of One
11 Thousand Dollars (\$1,000) for a third time violation within a twelve month period. Each day a
12 violation exists is a separate offense.

13 (b) The Department of the Environment shall oversee the enforcement of this Act and may
14 partner with inspectors of other departments to address violations, as determined in this Act.

15 (c) The County Attorney or any affected party may file an action in court with jurisdiction
16 to enjoin repeated violations of this Section.

17 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby
18 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
19 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
20 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
21 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
22 Act, since the same would have been enacted without the incorporation in this Act of any such
23 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,
24 or section.

25 SECTION 3. BE IT FURTHER ENACTED that Section 19-141 of this Act shall take effect
26 on January 1, 2016.

27 SECTION 4. BE IT FURTHER ENACTED that, notwithstanding Section 3 of this Act,,
28 this Act shall take effect on July 1, 2016.

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Adopted this 28th day of April, 2015.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Mel Franklin
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____

BY: _____
Rushern L. Baker, III
County Executive