



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

## Office of Audits and Investigations

March 15, 2022

### MEMORANDUM

TO: Robert J. Williams, Jr.  
Council Administrator

William M. Hunt  
Deputy Council Administrator

THRU: Josh Hamlin   
Director of Budget and Policy Analysis

FROM: Alex Hirtle   
Legislative Budget and Policy Analyst

Policy Analysis and Fiscal Impact Statement  
CB-014-2022 Accessory Disposable Food Service Ware

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**CB-014-2022** (*proposed by*: Council Members Glaros, Ivey, and Dernoga)

Assigned to Committee of the Whole (COW)

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A BILL CONCERNING ACCESSORY DISPOSABLE FOOD SERVICE WARE for the purpose of providing for certain definitions; providing for certain prohibited acts; providing for a temporary waiver; providing for education and outreach; providing for enforcement; and generally regarding accessory disposable food service ware.

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### **Fiscal Summary**

#### **Direct Impact:**

*Expenditures:* Modest increase.

*Revenues:* None likely.

**Indirect Impact:**

Potentially positive.

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**Legislative Summary:**

CB-014-2022, sponsored by Council Members Glaros, Ivey, and Dernoga, was presented on March 1, 2022, and referred to the Committee of the Whole. The Bill provides that food service businesses shall provide accessory disposable food service ware<sup>1</sup> only upon request by the customer or at a self-service station. Take-out or delivery orders shall not include accessory disposable food service ware unless specifically requested by the customer in person, on the phone, or online.

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**Current Law/Background:**

County Code Subtitle 19, Pollution, contains several provisions regulating food service ware and containers. In 2015, the Council enacted CB-005-2015, which generally prohibited the use of expanded polystyrene (often referred to as “Styrofoam”) products in food service.<sup>2</sup> In 2019, The Council enacted CB-052-2019, which generally prohibited non-compostable drinking straws and stirrers.<sup>3</sup>

Beyond those provisions, current law provides no additional restrictions on accessory disposable food service ware as part of a food delivery or food take-out transaction. At present, whether accessory disposable food service ware is provided or not in a delivery or take-out package is generally at the discretion of the food service operator. Many food service operators automatically place accessory ware in all take-out bags as a default for customers. This practice can create unnecessary additional solid waste in the County landfill if the customer does not need the accessory ware items and disposes of them in the trash. These items can also find themselves as solid waste pollution (litter) in the environment. Items in this legislation include straws, utensils, condiment cups and packets, cup sleeves, splash sticks, stirrers, and napkins.

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**Resource Personnel:**

Aimee E. Olivo, Chief of Staff for Council Member Glaros.

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<sup>1</sup>CB-014-2022 defines accessory disposable food service ware as “straws, utensils, condiment cups and packets, cup sleeves, splash sticks, stirrers, and napkins, designed to be used once and then discarded.”

<sup>2</sup>[https://library.municode.com/md/prince\\_george's\\_county/codes/code\\_of\\_ordinances?nodeId=PTIITI17PULOLAPRGECOMA\\_SUBTITLE\\_19PO\\_DIV5EXPOBA](https://library.municode.com/md/prince_george's_county/codes/code_of_ordinances?nodeId=PTIITI17PULOLAPRGECOMA_SUBTITLE_19PO_DIV5EXPOBA)

<sup>3</sup>[https://library.municode.com/md/prince\\_george's\\_county/codes/code\\_of\\_ordinances?nodeId=PTIITI17PULOLAPRGECOMA\\_SUBTITLE\\_19PO\\_DIV7NMPSTST](https://library.municode.com/md/prince_george's_county/codes/code_of_ordinances?nodeId=PTIITI17PULOLAPRGECOMA_SUBTITLE_19PO_DIV7NMPSTST)

### **Discussion/Policy Analysis:**

This legislation is aimed at curbing use, waste, and pollution of accessory single-use and disposable food service ware by providing customer choice of receiving accessory disposable food service ware from food service businesses primarily for take-out and delivery orders. The legislation falls in line with the waste minimization objective and Zero Waste Initiatives of the most recent Comprehensive Ten-Year Solid Waste Management Plan.<sup>4</sup> The Bill is not a “ban” *per se*, but instead seeks to change the default behavior from providing accessory disposable food service ware with every order to providing it only upon request. Currently, the choice is left up to the staff and/or management of the food service facility. The legislation also requires any digital platform, including third-party entities such as pick-up and delivery services to provide for choice of the customer receiving accessory disposable food service ware or not.

Food service businesses would be under a timeline to implement the requirements by February 1, 2023, and digital/third party entities would have six additional months, August 1, 2023, to implement the requirements. This should provide more than enough time for all parties to prepare for and adhere to the provisions of the legislation. The legislation also provides the Director of the Department of the Environment to give temporary waivers for special requests for up to one year if undue hardship would occur with legislative implementation.

Solid waste pollution is a definite challenge within the County, as well as the region, and disposable food service ware is a notable part of this issue. The Department of the Environment hired a consultant to perform a waste characterization study, which was published in 2016. The study found that in a survey of residential waste, “other waste”, which is considered waste difficult to re-use, recycle, or divert, which most accessory disposable food service ware falls under, consisted of over 23% of the total waste surveyed.<sup>5</sup> A similar percentage occurred with commercial and public school surveys.<sup>6</sup> Data received by the Anacostia Watershed Society confirmed that plastic lids, straws, and tops are considerable contributors to both ground and waterway trash: a year-long study by the District Department of the Environment (DDOE) revealed that at Nash Run Trash Trap, located in Kenilworth Park, an area that abuts the Tuxedo/Cheverly neighborhoods of Prince George’s County, trapped 5,477 pieces of plastic specific to cup lids, straws, and bottle tops.<sup>7</sup> This does not include the 9,650 pieces of napkins and “miscellaneous plastic trash” also identified in the study, which includes items like plastic stirrers and the small, one-use condiments packets and cups for such things as ketchup or mayonnaise.<sup>8</sup>

Additionally, there is ample empirical evidence within the County of litter in the form of accessory single use and disposable food service ware, such as plastic utensils, straws, napkins, stirrers, and condiment cups and packets. This is seen on the side of the roadways, in parking lots, near food service businesses, and as noted in our waterways. The Council has identified this concern and

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<sup>4</sup> [CR-003-2017 - Ten Year Solid Waste Plan 2017-2026 \(Draft\) \(princegeorgescountymd.gov\)](#), I-16 & I-17.

<sup>5</sup> Waste Characterization Study Summary of Results by SCS Engineers, June 2016. Appendix B.

<sup>6</sup> IBID.

<sup>7</sup> <https://doee.dc.gov/publication/demonstration-trash-reduction-technologies>

<sup>8</sup> IBID.

has passed legislation on illegal dumping as well as provided funding to DPW&T for litter clean-up contractors. This piece of legislation would be another tool to reduce litter in the County.

Several jurisdictions in the Washington Metropolitan area as well as other cities and jurisdictions in the U.S. have passed legislation that provides for similar action to CB-014-2022. Our legislation was modeled after the District of Columbia's Zero Waste Omnibus Amendment Act of 2020 that was signed into legislation in December, 2020. Their legislation was primarily modeled after the City of Berkeley's (Ca.) Single Use Foodware and Litter Reduction Ordinance.<sup>9</sup> Other local jurisdictions, such as Howard County (Md.) have legislation that under certain conditions prohibit certain single-use drinking straws and beverage stirrers, and certain condiment packets, as well as certain food ware plastics utensils, containers and lids; they can no longer be distributed or sold at food service facilities unless specifically requested.<sup>10</sup> Similar bills have been passed in many other jurisdictions in the U.S., including Northampton, Massachusetts; Denver, Colorado; and several communities in California, including Los Angeles, Daly City, Santa Cruz, Half Moon Bay, and Marin and Sonoma Counties.

The Department of the Environment will oversee the enforcement of this legislation, and may partner with inspectors from other departments to address violations. As with other environmental provisions within the County, such as the straw and polystyrene ban (CB-052-2019 and CB-05-2015 respectively), enforcement will probably be complaint driven, mainly through residents. First violations will be a warning, second violation \$250, and third \$1,000 within a twelve-month period. Fines will not be imposed before August 1, 2023.

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### **Fiscal Impact:**

- *Direct Impact*

Enactment of CB-014-2022 will have a modest adverse fiscal impact on the County through funding for the mandated education and outreach component to food service businesses and the public. Additionally, there will be modest fiscal impacts for enforcement of the legislation, including training and software updates

- *Indirect Impact*

Enactment of CB-014-2022 could have a positive indirect impact by increasing the health and quality of life for residents, and reduced clean-up costs of litter.

- *Appropriated in the Current Fiscal Year Budget*

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<sup>9</sup> [https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Solid\\_Waste/2019-02-19%20Item%2001%20Ordinance%207639.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Solid_Waste/2019-02-19%20Item%2001%20Ordinance%207639.pdf)

<sup>10</sup> <https://livegreenhoward.com/plastic-reduction-law/>

N/A.

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**Effective Date of Proposed Legislation:**

This Act shall take effect 45 calendar days after it becomes law.

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If you require additional information, or have questions about this fiscal impact statement, please reach out to me via phone or email.