A BILL FOR AN ACT

RELATING TO POLYSTYRENE FOAM CONTAINERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that products made using polystyrene foam are one of the most common kinds of litter pollution in Hawaii. Polystyrene foam is ultra-light, which prevents collection systems from capturing it and allows it to easily accumulate on land and in waterways. The fragments of polystyrene foam that are left leach styrene, a known carcinogen, and other toxins that then poison the environment and local food chain. Most plastics do not biodegrade. Instead, they slowly break down into smaller fragments known as microplastics. Studies suggest that plastic bags and containers made of expanded polystyrene foam, which is commonly referred to as "styrofoam", can take up to thousands of years to decompose, contaminating soil and water. The sight of polystyrene products littering Hawaii's landscapes serves as a detriment to the State's number one industry, tourism. Polystyrene foam also contributes to the potential death of marine animals and avian populations through ingestion.
The legislature further finds that behavior modification campaigns have been among the most effective in ushering in these sustainable changes. The Surfrider Foundation's ocean friendly restaurants program has registered over two hundred businesses across the State that have gone single-use plastic and foam-free without any economic hardship. Similar material transition pieces of legislation have been enacted nationally and internationally without any evidence of economic hardship. As plastic pollution has exponentially accelerated globally, there are large movements underway to reduce this impact and it is in the best interest of Hawaii's business community to be a leader in change and innovation.

The purpose of this Act is to protect the State's economy and environment by phasing out the sale of polystyrene foam containers and serving of prepared food using polystyrene foam containers statewide.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

POLYSTYRENE FOAM CONTAINERS"
§ 1 Definitions. As used in this chapter:

"Polystyrene" means a thermoplastic petrochemical material utilizing a styrene monomer, including all polystyrene, meaning any styrene or vinyl chloride polymer that is blown into a foam-like material. Polystyrene includes materials created from techniques including the fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

"Polystyrene foam container" means a container that is made using polystyrene.

"Prepared food" means food or beverages that are prepared to be consumed on or off the premises of a restaurant or food establishment.

"Restaurant" means an eating establishment, including but not limited to coffee shops, cafeterias, sandwich stands, food trucks, and private and public school cafeterias, that gives or offers for sale food or beverages to the public, guests, or employees, as well as kitchens and catering facilities in which food or beverage is prepared on the premises for serving elsewhere. The term "restaurant" includes a bar area within the restaurant and outdoor areas of restaurants.
"Vendor" means any person, firm, or corporation engaged in
selling or offering for sale any prepared food containers.

§ -2 Phasing out the sale and use of polystyrene foam
containers. (a) No vendor operating within the State shall
sell any polystyrene foam containers.

(b) No restaurant operating within the State shall serve
prepared food using polystyrene foam containers.

(c) At the point of sale for the purposes of serving
prepared food, the restaurant shall charge the customer a
minimum of 20 cents as a malama āina fee per take-out order.

§ -3 Rules. The department of health may adopt rules
pursuant to chapter 91 necessary to implement this chapter,
including rules relating to enforcement and exemptions. The
rules may also include a requirement for food vendors to educate
their customers regarding proper disposal of nonreusable food
containers and litter reduction."

SECTION 3. This Act is intended to be a proper exercise of
the State's police power and role as a market participant, to
operate only upon its own officers, agents, employees, and
facilities, and other persons acting within the State's
boundaries, and not to regulate inter-city or interstate
commerce. Nothing in this Act shall be interpreted or applied
so as to create any requirement, power, or duty in conflict with
any federal law.

SECTION 4. This Act does not affect rights and duties that
matured, penalties that were incurred, and proceedings that were
begun before its effective date.

SECTION 5. If any provision of this Act, or the
application thereof to any person or circumstance, is held
invalid, the invalidity does not affect other provisions or
applications of the Act that can be given effect without the
invalid provision or application, and to this end the provisions
of this Act are severable.

SECTION 6. This Act shall take effect on January 1, 2020.

INTRODUCED BY:
Report Title:
Polystyrene Foam Products; Prohibition; Disposal of Nonreusable Prepared Food Containers; Litter Reduction

Description:
Prohibits the sale of polystyrene foam containers and serving of prepared foods using polystyrene foam containers statewide. Requires restaurants to charge customers 20 cents as a malama aina fee per take-out order. Authorizes the Department of Health to adopt rules to implement the prohibition and include within its administrative rules a requirement for prepared food vendors to educate their customers about proper disposal of nonreusable food containers and litter reduction. Effective 1/1/2020.

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