

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0611.01 Jennifer Berman x3286

HOUSE BILL 20-1162

HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

Foote and Story,

House Committees

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A BILL FOR AN ACT

101 **CONCERNING A PROHIBITION AGAINST A RETAIL FOOD**
102 **ESTABLISHMENT'S DISTRIBUTION OF AN EXPANDED**
103 **POLYSTYRENE PRODUCT FOR USE AS A CONTAINER FOR**
104 **READY-TO-EAT FOOD.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Effective January 1, 2022, the bill prohibits a retail food establishment from distributing an expanded polystyrene product for use as a container for ready-to-eat food in this state. The executive director

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

of the department of public health and environment or the executive director's designee may, through the attorney general, seek injunctive relief against a retail food establishment that violates the prohibition.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 5 to article
3 17 of title 25 as follows:

4 **PART 5**

5 **EXPANDED POLYSTYRENE**

6 **25-17-501. Definitions.** AS USED IN THIS PART 5, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
9 AND ENVIRONMENT.

10 (2) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
11 THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

12 (3) "EXPANDED POLYSTYRENE" MEANS BLOWN POLYSTYRENE,
13 COMMONLY KNOWN AS STYROFOAM™, AND ANY OTHER EXPANDED OR
14 EXTRUDED FOAM CONSISTING OF THERMOPLASTIC PETROCHEMICAL
15 MATERIALS UTILIZING A STYRENE MONOMER AND PROCESSED BY
16 TECHNIQUES THAT MAY INCLUDE:

17 (a) FOR EXPANDABLE-BEAD POLYSTYRENE, FUSION OF POLYMER
18 SPHERES;

19 (b) INJECTION MOLDING;

20 (c) FOAM MOLDING; AND

21 (d) FOR EXTRUDED FOAM POLYSTYRENE, EXTRUSION-BLOW
22 MOLDING.

23 (4) (a) "FOOD" MEANS ANY RAW, COOKED, OR PROCESSED EDIBLE
24 SUBSTANCE, ICE, BEVERAGE, OR INGREDIENT USED OR INTENDED FOR USE

1 OR FOR SALE, IN WHOLE OR IN PART, FOR HUMAN CONSUMPTION.

2 (b) "FOOD" DOES NOT MEAN A DRUG, AS DEFINED IN SECTION
3 25-5-402 (9).

4 (5) "READY-TO-EAT FOOD" MEANS FOOD THAT IS COOKED OR
5 OTHERWISE PREPARED IN ADVANCE FOR IMMEDIATE CONSUMPTION.

6 (6) "RETAIL FOOD ESTABLISHMENT" HAS THE MEANING SET FORTH
7 IN SECTION 25-4-1602 (14).

8 **25-17-502. Prohibition on use of expanded polystyrene food**

9 **containers - enforcement - definition.** (1) (a) EXCEPT AS PROVIDED IN
10 SUBSECTIONS (1)(b) AND (2) OF THIS SECTION, EFFECTIVE JANUARY 1,
11 2022, A RETAIL FOOD ESTABLISHMENT SHALL NOT DISTRIBUTE AN
12 EXPANDED POLYSTYRENE PRODUCT FOR USE AS A CONTAINER FOR
13 READY-TO-EAT FOOD IN THIS STATE.

14 (b) (I) A RETAIL FOOD ESTABLISHMENT LOCATED WITHIN A
15 MIDDLE, JUNIOR HIGH, OR HIGH SCHOOL OR A RURAL SCHOOL NEED NOT
16 COMPLY WITH SUBSECTION (1)(a) OF THIS SECTION UNTIL:

17 (A) JANUARY 1, 2023, IF THE SCHOOL IS A MIDDLE OR JUNIOR HIGH
18 SCHOOL OR A RURAL ELEMENTARY OR K-12 SCHOOL; OR

19 (B) JANUARY 1, 2024, IF THE SCHOOL IS A HIGH SCHOOL.

20 (II) AS USED IN THIS SUBSECTION (1)(b), "SCHOOL" HAS THE
21 MEANING SET FORTH IN SECTION 23-3.9-101 (6).

22 (2) IF A RETAIL FOOD ESTABLISHMENT PURCHASED EXPANDED
23 POLYSTYRENE PRODUCTS BEFORE JANUARY 1, 2022, THE RETAIL FOOD
24 ESTABLISHMENT MAY DISTRIBUTE ANY REMAINING INVENTORY OF THE
25 EXPANDED POLYSTYRENE PRODUCTS THEN PURCHASED FOR USE AS
26 CONTAINERS FOR READY-TO-EAT FOOD IN THIS STATE UNTIL THE
27 INVENTORY IS DEPLETED. THE DEPARTMENT MAY REQUEST THAT THE

1 RETAIL FOOD ESTABLISHMENT FURNISH TO THE DEPARTMENT ANY
2 PURCHASE INVOICES, DISTRIBUTION RECEIPTS, OR OTHER DOCUMENTATION
3 THAT DEMONSTRATES THAT THE RETAIL FOOD ESTABLISHMENT ACQUIRED
4 THE EXPANDED POLYSTYRENE PRODUCTS BEFORE JANUARY 1, 2022.

5 (3) THE EXECUTIVE DIRECTOR, ON THE EXECUTIVE DIRECTOR'S
6 OWN MOTION OR UPON A COMPLAINT BY ANY PERSON, MAY INVESTIGATE
7 AN ALLEGED VIOLATION OF THIS PART 5. IF THE EXECUTIVE DIRECTOR
8 BELIEVES THAT A RETAIL FOOD ESTABLISHMENT HAS VIOLATED THIS PART
9 5, THE EXECUTIVE DIRECTOR MAY REQUEST THAT THE ATTORNEY GENERAL
10 SEEK AN INJUNCTION IN ANY COURT OF COMPETENT JURISDICTION TO
11 ENJOIN THE RETAIL FOOD ESTABLISHMENT FROM ACTING IN A MANNER
12 THAT VIOLATES THIS PART 5.

13 **SECTION 2. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2020 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.