

1 2. "AGENCY" MEANS ANY STATE DEPARTMENT, AGENCY, BOARD, PUBLIC BENEFIT
2 CORPORATION, PUBLIC AUTHORITY, OR COMMISSION.

3 3. "COMPOSTABLE" MEANS ALL THE MATERIALS IN THE PRODUCT OR PACKAGE
4 WILL (A) UNDERGO DEGRADATION BY BIOLOGICAL PROCESSES DURING COMPOSTING
5 TO YIELD CARBON DIOXIDE, WATER, INORGANIC COMPOUNDS, AND BIOMASS AT A
6 RATE CONSISTENT WITH OTHER KNOWN COMPOSTABLE MATERIALS AND (B) LEAVE NO
7 VISIBLE, DISTINGUISHABLE OR TOXIC RESIDUE, INCLUDING NO ADVERSE IMPACT
8 ON THE ABILITY OF COMPOSTS TO SUPPORT PLANT GROWTH ONCE THE FINISHED
9 COMPOST IS PLACED IN SOIL.

10 4. "CONTRACTORS AND LESSEES" MEAN ANY PERSON OR ENTITY THAT HAS A
11 CONTRACT WITH AN AGENCY OR A MUNICIPALITY FOR PUBLIC WORKS OR IMPROVE-
12 MENTS TO BE PERFORMED, FOR A FRANCHISE, CONCESSION OR LEASE OF PROPERTY,
13 FOR GRANT MONIES OR GOODS AND SERVICES OR SUPPLIES TO BE PURCHASED AT
14 THE EXPENSE OF THE AGENCY OR MUNICIPALITY OR TO BE PAID OUT OF MONIES
15 DEPOSITED IN THE TREASURY OR OUT OF TRUST MONIES UNDER THE CONTROL OR
16 COLLECTED BY THE AGENCY OR MUNICIPALITY.

17 5. "DISPOSABLE FOOD SERVICE WARE" MEANS ALL CONTAINERS, BOWLS, PLATES,
18 TRAYS, CARTONS, CUPS, LIDS, STRAWS, FORKS, SPOONS, KNIVES, NAPKINS AND
19 OTHER ITEMS THAT ARE DESIGNED FOR ONE-TIME USE FOR PREPARED FOODS,
20 INCLUDING WITHOUT LIMITATION, SERVICE WARE FOR TAKEOUT FOODS AND/OR
21 LEFTOVERS FROM PARTIALLY CONSUMED MEALS PREPARED BY FOOD VENDORS. THE
22 TERM "DISPOSABLE FOOD SERVICE WARE" DOES NOT INCLUDE ITEMS COMPOSED
23 ENTIRELY OF ALUMINUM OR POLYSTYRENE FOAM COOLERS AND ICE CHESTS THAT ARE
24 INTENDED FOR REUSE NOR DOES THIS TERM INCLUDE RECYCLABLE FOOD SERVICE
25 WARE.

26 6. "MUNICIPALITY" MEANS A VILLAGE, TOWN, CITY, OR COUNTY, OR ANY
27 DESIGNATED AGENCY THEREOF.

28 7. "POLYSTYRENE FOAM" MEANS BLOWN POLYSTYRENE AND EXPANDED AND EXTRUD-
29 ED FOAMS (SOMETIMES CALLED STYROFOAM TM) WHICH ARE THERMOPLASTIC PETRO-
30 CHEMICAL MATERIALS UTILIZING A STYRENE MONOMER AND PROCESSED BY ANY
31 NUMBER OF TECHNIQUES INCLUDING, BUT NOT LIMITED TO, FUSION OF POLYMER
32 SPHERES (EXPANDABLE BEAD POLYSTYRENE), INJECTION MOLDING, FOAM MOLDING,
33 AND EXTRUSION-BLOWN MOLDING (EXTRUDED FOAM POLYSTYRENE). POLYSTYRENE
34 FOAM IS GENERALLY USED TO MAKE CUPS, BOWLS, PLATES, TRAYS, CLAMSHELL
35 CONTAINERS, MEAT TRAYS AND EGG CARTONS.

36 8. "RECYCLABLE" MEANS MATERIAL THAT CAN BE SORTED, CLEANSSED AND RECON-
37 STITUTED USING AVAILABLE RECYCLING COLLECTION PROGRAMS FOR THE PURPOSE
38 OF USING THE ALTERED FORM IN THE MANUFACTURE OF A NEW PRODUCT. RECYCLING
39 DOES NOT INCLUDE BURNING, INCINERATING, CONVERTING, OR OTHERWISE THER-
40 MALLY DESTROYING SOLID WASTE.

41 S 27-2603. REQUIRED COMPOSTABLE OR RECYCLABLE DISPOSABLE FOOD SERVICE
42 WARE.

43 AGENCIES, MUNICIPALITIES, AND THEIR CONTRACTORS AND LESSEES SHALL USE
44 FOOD SERVICE WARE MADE FROM MATERIAL, OTHER THAN POLYSTYRENE FOAM, THAT
45 IS COMPOSTABLE OR RECYCLABLE UNLESS THERE IS NO AFFORDABLE COMPOSTABLE
46 OR RECYCLABLE PRODUCT AVAILABLE. NOTHING IN THIS SECTION SHALL BE
47 CONSTRUED TO GOVERN THE ACTIVITIES OF CONTRACTORS AND LESSEES THAT OCCUR
48 OUTSIDE OF THE STATE OR ACTIVITIES OF CONTRACTORS OF LESSEES THAT OCCUR
49 WITH ENTITIES OTHER THAN AGENCIES OR MUNICIPALITIES.

50 S 27-2605. POWERS OF MUNICIPALITIES.

51 ANY AGENCY OR MUNICIPALITY MAY PROMULGATE REGULATIONS, ORDINANCES, OR
52 LAWS TO TAKE ANY AND ALL REASONABLE ACTIONS NECESSARY TO IMPLEMENT AND
53 ENFORCE THIS TITLE.

54 S 3. The department of environmental conservation shall conduct a
55 study on the desirability, feasibility and environmental impact of a
56 statewide prohibition on the use of disposable food service ware that

1 contains polystyrene foam. The department shall issue a report contain-
2 ing the results of the study to the legislature no later than January
3 31, 2010.
4 S 4. This act shall take effect immediately; provided, however, that
5 sections one and two of this act shall take effect on the one hundred
6 twentieth day after it shall have become a law.