

# STATE OF NEW YORK

2869

2021-2022 Regular Sessions

## IN SENATE

January 26, 2021

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to prohibiting the use of polystyrene containers by restaurants and food vendors

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding a new section  
2 399-eee to read as follows:

3 § 399-eee. Prohibiting the use of polystyrene containers by restau-  
4 rants and other food vendors to package unconsumed food. 1. Definitions.  
5 The following terms shall have the following meanings as used in this  
6 section:

7 (a) "polystyrene" or "polystyrene foam" means blown polystyrene and  
8 expanded foams utilizing a styrene monomer and processed by any number  
9 of techniques. Polystyrene foam is generally used to make cups, bowls,  
10 plates, trays, clamshell containers, meat trays and egg cartons.

11 (b) "food service establishment" means any area, including outdoor  
12 seating areas, in which the business is the sale of food for on-premises  
13 consumption.

14 (c) "food vendor" means any store, shop, sales outlet, or other estab-  
15 lishment, including a delicatessen or restaurant that sells prepared  
16 foods and provides for on-premises consumption of such foods.

17 (d) "disposable food service ware" means all containers, bowls,  
18 plates, trays, cartons, cups, lids, and other items that are designed  
19 for one-time use for prepared foods and may be used to package leftovers  
20 from partially consumed meals prepared by food service establishments  
21 and/or food vendors.

22 2. Use of polystyrene disposable food service ware prohibited for  
23 packaging unconsumed food. No food service establishment or food vendor  
24 shall use polystyrene disposable food service ware for the packaging of

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 unconsumed food or drink remaining after a meal to be taken from such  
2 food service establishment or food vendor by patrons.

3 3. Enforcement and violations. (a) Whenever there shall be a violation  
4 of this section, application may be made by the attorney general in the  
5 name of the people of the state of New York to a court or justice having  
6 jurisdiction by a special proceeding to issue an injunction, and upon  
7 notice to the defendant of not less than five days, to enjoin and  
8 restrain the continuance of such violation; and if it shall appear to  
9 the satisfaction of the court or justice that the defendant has, in  
10 fact, violated this section, an injunction may be issued by such court  
11 or justice, enjoining and restraining any further violation, without  
12 requiring proof that any person has, in fact, been injured or damaged  
13 thereby. In connection with any such proposed application, the attorney  
14 general is authorized to take proof and make a determination of the  
15 relevant facts and to issue subpoenas in accordance with the civil prac-  
16 tice law and rules.

17 (b) Any person who violates this section shall be subject to a civil  
18 penalty of not more than five hundred dollars for each violation. Each  
19 day in which a food service establishment or food vendor uses polystyr-  
20 ene disposable food service ware in violation of this section may  
21 constitute a separate violation.

22 (c) In addition, the district attorney, county attorney, and the  
23 corporation counsel shall have concurrent authority to seek the relief  
24 in paragraph (b) of this subdivision, and all civil penalties obtained  
25 in any such action shall be retained by the municipality or county.

26 § 2. This act shall take effect on the one hundred eightieth day after  
27 it shall have become a law.