

I Mina'Trentai Kuåttro Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
379-34 (COR)	Fernando B. Esteves	AN ACT TO ADD A NEW CHAPTER 54C TO TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING THE SALE OF POLYSTYRENE FOAM CONTAINERS AND SERVING OF PREPARED FOODS USING POLYSTYRENE FOAM CONTAINERS.	11/21/18 2:00 p.m.						

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

Bill No. 379-34 (COR)

Introduced by:

Fernando Barcinas Esteves F.B.E.

**AN ACT TO *ADD* A NEW CHAPTER 54C TO TITLE 10,
GUAM CODE ANNOTATED, RELATIVE TO
PROHIBITING THE SALE OF POLYSTYRENE FOAM
CONTAINERS AND SERVING OF PREPARED FOODS
USING POLYSTYRENE FOAM CONTAINERS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that expanded polystyrene (EPS) food-service foam, identified by the resin code number six (6), is a non-biodegradable material which has been estimated to decompose in about 500 years. The Layon landfill located in Inarajan is the only landfill currently operating in Guam. The increasing growth rate of expanded polystyrene food-service foam contaminating the landfills is providing an unnecessary accommodation. *I Liheslatura* therefore finds that the ban of its use and distribution can prolong the landfills' stability and possibly delay the need for another cell in the future.

I Liheslaturan Guåhan further finds that trash collection agencies and companies offer curbside recycling programs to island residents; however, they do not accept expanded polystyrene (EPS) foam products as a recyclable item. As a result, EPS products are inevitable dumped into the landfills.

I Liheslaturan Guåhan further finds that expanded polystyrene (EPS) foam products are easily fragmented as litter, thus increasing difficulty in clean up and cost and poses a hazard to animals and the environment. Supporting research has

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1 shown that recycling EPS is economically impossible to achieve. In a report
2 submitted to the New York City Council Committee on Sanitation and Solid Waste
3 Management, the New York City Department of Sanitation investigated the four
4 (4) jurisdictions all located in the state of California, which have claimed to recycle
5 EPS food-service foam. The report states that the investigation discovered one
6 consistent message: the jurisdictions regret having designated food-service foam as
7 a recyclable due to current costs of processing foam, the lack of markets for food-
8 service foam, and the sorting problems occurring in material recovery facilities
9 (MRF).

10 It is, therefore, the intent of *I Liheslaturan Guåhan* to ban the use and
11 distribution of expanded polystyrene (EPS) and food-service foam identified by
12 resin code number six (6) as the first step toward protecting and preserving our
13 environment and natural resources.

14 **Section 2.** A new Chapter 54C is *added* to Title 10, Guam Code
15 Annotated, to read:

16 **“CHAPTER 54C**

17 **PROHIBITING THE SALE AND USE OF POLYSTYRENE FOAM**
18 **CONTAINERS**

19 § 54C001. Definitions.

20 § 54C002. Requirements.

21 § 54C003. Enforcement and Penalties.

22 § 54C004. Cost Recovery.

23 § 54C005. Prohibition.

24 **§ 54C001. Definitions.**

25 For the purposes of this Chapter:

26 (a) *Agency* means the Guam Environmental Protection Agency.

1 **(b) Expanded Polystyrene Surcharge** means a surcharge to be used to
2 mitigate negative effects by recovering present and potential associated costs.

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

9 **(d) Polystyrene foam container** means a container that is made using
10 polystyrene.

11 **(e) Prepared food** means food or beverages that are prepared to be
12 consumed on or off the premises of a restaurant or food establishment.

13 **(f) Restaurant** means an eating establishment, including but not limited to
14 coffee shops, cafeterias, sandwich stands, food trucks, and private and public
15 school cafeterias, that gives or offers for sale food or beverages to the public,
16 guests, or employees, as well as kitchens and catering facilities in which food or
17 beverage is prepared on the premises for serving elsewhere. The term *restaurant*
18 includes a bar area within the restaurant and outdoor areas of restaurants.

19 **(g) Vendor** means any person, firm, or corporation engaged in selling or
20 offering for sale any prepared food containers.

21 **§ 54C002. Requirements.**

22 Vendors or restaurants may offer for sale or distribute disposable containers
23 to consumers. Vendors or restaurants *shall not* offer for sale or distribute
24 disposable containers unless such containers meet the following criteria:

25 **(a) Disposable containers made of paper or other plant based material.**

26 **(b) Disposable containers made of plastic, including plastics made from**
27 **bio-based polymers, shall be biodegradable or compostable; and if otherwise not**

1 biodegradable or compostable, be made of highly durable polypropylene (PP)
2 material marked with the SPI resin identification code 5.

3 **§ 54C003. Enforcement and Penalties.**

4 The Agency shall be responsible for the enforcement of the provisions of
5 this Chapter. Any entity violating the provisions of this Chapter shall be subject to
6 a civil penalty not to exceed Five Hundred Dollars (\$500) for the first offense; an
7 amount not to exceed One Thousand Dollars (\$1,000) for the second offense; and
8 an amount not to exceed Ten Thousand Dollars (\$10,000) for any offense
9 thereafter during a one (1)-year period. No more than one (1) penalty shall be
10 imposed upon any entity within a seven (7)-day period. Any entity who was
11 provided with a notice of violation and imposed a civil penalty under this Chapter
12 may appeal this decision and request a hearing from the Agency pursuant to the
13 Agency's procedures. Fees collected under this Section shall be deposited into the
14 Recycling Revolving Fund to be used for the enforcement of this Chapter. The
15 Administrator of the Agency, in coordination with the Chief Technology Officer of
16 the Office of Technology, shall establish and promote an email address or other
17 tool for digital reporting that consumer and businesses may utilize to report
18 violations, or to ask questions regarding the implementation of this Chapter, with a
19 prompt response from the Agency.

20 **§ 54C004. Cost Recovery.**

21 The Guam Solid Waste Authority shall assess an Expanded Polystyrene
22 Surcharge, in addition to standard charges, of no less than thirty percent (30%) of
23 standard charges on allmunicipal waste derived from areas not subject to the
24 jurisdiction of this Chapter. The Guam Solid Waste Authority shall waive the
25 Expanded Polystyrene Surcharge upon ratification and maintenance of a
26 Memorandum of Agreement between the Guam Solid Waste Authority and parties
27 or areas not otherwise subject to the jurisdiction of this Chapter. The Memorandum

1 of Agreement shall stipulate compliance with §54C002 and §54C005(a) of this
2 Chapter.

3 **§ 54C005. Prohibition.**

4 (a) Beginning on January 1, 2021, no vendor or any other entity licensed
5 to do business in Guam shall sell any polystyrene foam containers, except
6 disposable containers listed in § 54C002 of this Chapter and no restaurant or any
7 other entity licensed to do business in Guam shall serve prepared food using
8 polystyrene foam containers.

9 (b) Any entity found in violation of this Section shall be subject to a civil
10 penalty pursuant to § 54C003 of this Chapter. All fees or surcharges collected
11 pursuant to this Chapter shall be deposited in the Recycling Revolving Fund.”

12 **Section 3. Effective Date.** This Act *shall* become effective on January 1,
13 2019.