

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
69-36 (COR)	Committee on Air Transportation, Parks, Tourism, Higher Education, and the Advancement of Women, Youth and Senior Citizens by request of I Kongressun Manhoben Guåhan, the Guam Youth Congress, in accordance with 2 GCA § 7102.	AN ACT TO ADD A NEW CHAPTER 54C TO DIVISION 2 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING THE SALE OF POLYSTYRENE FOAM CONTAINERS AND SERVING OF PREPARED FOODS USING POLYSTYRENE FOAM CONTAINERS	3/2/21 10:44 a.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 69-36 (COR)

Introduced by:

Committee on Air Transportation,
Parks, Tourism, Higher Education, and
the Advancement of Women, Youth
and Senior Citizens *Amelz*
by request of *I Kongressun Manhoben*
Guåhan, the Guam Youth Congress, in
accordance with 2 GCA § 7102.

**AN ACT TO ADD A NEW CHAPTER 54C TO DIVISION 2 OF
TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO
PROHIBITING THE SALE OF POLYSTYRENE FOAM
CONTAINERS AND SERVING OF PREPARED FOODS USING
POLYSTYRENE FOAM CONTAINERS.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that expanded polystyrene (EPS) food-service foam, identified by the resin code
4 number six (6), is non-biodegradable material which has been estimated to
5 decompose in about 500 years. The *Layon* landfill located in *Inarajan* is the only
6 landfill currently operating in Guam. The increasing growth rate of expanded
7 polystyrene food-service foam contaminating the landfills is providing an
8 unnecessary accommodation. There are three million (3,000,000) tons of
9 polystyrene are produced in the United States each year, predominantly used to make
10 packaging materials and food service items such as foam cups, cartons, and other
11 containers. *I Liheslatura* therefore finds that the ban of its use and distribution can

1 prolong the landfill’s stability and possibly delay the need for another cell in the
2 future..

3 *I Liheslatura* further finds that manufacturing expanded polystyrene (EPS)
4 involves use of hazardous chemicals, fossil fuel, and emission of greenhouse gases.
5 According to research by Manu Chandra *et. al.* (2016) benzene and Styrene
6 compounds used for Styrofoam production has been linked with neurological effects
7 and increased risk of cancers, such as leukemia, from prolonged exposure, and are
8 harmful to humans.

9 *I Liheslatura* further finds that trash collection agencies and companies offers
10 curbside recycling programs to island residents; however, they do not accept
11 expanded polystyrene (EPS) from products as a recyclable item. As a result, EPS
12 products are inevitably dumped into the landfills.

13 *I Liheslatura* further finds that expanded polystyrene (EPS) foam products are
14 easily fragmented as liter, thus increasing difficulty in clean up and coast and poses
15 a hazard to animals and the environment. Expanded polystyrene (EPS) products
16 often end up in the ocean, where aquatic life mistakenly consumes these harmful
17 products causing them illnesses and increases the likelihood of their deaths in the
18 long run, which cause the decrease in their population. Many aquatic animals
19 including marine turtles, are considered endangered and need to be protected, and
20 be provided with clean environment and habitats. Supporting research has shown
21 recycling EPS is economically impossible to achieve. In a report submitted to the
22 New York City Council Committee on Sanitation and Solid Waste Management, the
23 New York City Department of Sanitation Investigated the four (4) jurisdictions all
24 located in the state of California, which have claimed to recycle EPS food-service
25 foam. The report states that the investigation discovered one consistent message: the
26 jurisdictions regret having designated food-service foam as a recyclable due to

1 current cost of processing foam, the lack of markets for food -service foam, and the
2 sorting problems occurring in material recovery facilities (MRF).

3 It is, therefore, the intent of *I Liheslaturan Guåhan* to ban the use and
4 distribution of expanded polystyrene (EPS) and food-service foam identified by
5 resin code number six (6) as the first step toward protecting and preserving our
6 environment and natural resources by adding a new Chapter 54C to Division 2 of
7 Title 10, Guam Code Annotated.

8 **Section 2.** A new Chapter 54C hereby *added* to Division 2 of Title 10,
9 Guam Code Annotated, to read:

10 **“CHAPTER 54C**

11 **PROHIBITING THE SALE AND USE OF POLYSTYRENE FOAM**

12 **CONTAINERS**

13 § 54C001. Definition.

14 § 54C002. Requirements.

15 § 54C003. Enforcement and Penalties.

16 § 54C004. Cost Recovery.

17 § 54C005. Prohibition.

18 **§ 54C001. Definition.**

19 For the purposes of this Chapter:

20 (a) *Agency* means the Guam Environmental Protection
21 Agency.

22 (b) *Educational Outreach* means engaging with the
23 community through means such as publications, social media, and ways
24 the agency may prefer with an announcement one (1) year, six (6)
25 months, and one (1) month prior to enactment.

1 (c) Expanded Polystyrene Surcharge means a surcharge to be
2 used to mitigate the effects by recovering present and Potential
3 associated cost.

4 (d) Import means the act of bringing goods and merchandise
5 into an intended location from an external source, location, or
6 distributor of those goods and merchandise.

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

14 (f) Polystyrene foam container means a container that is made
15 using polystyrene.

16 (g) Prepared food means food or beverages that are prepared
17 to be consumed on or off the premises of a restaurant or food
18 establishment.

19 (h) Restaurant means an eating establishment, including but
20 not limited to coffee shops, cafeterias, sandwich stand, food trucks, and
21 private and public school cafeterias, that gives or offer for sale food and
22 beverages to the public, guest, employees, as well as kitchens, and
23 catering facilities in which food or beverage is prepared on the premises
24 for serving elsewhere. The term restaurant includes a bar area within
25 the restaurant and outdoor areas of restaurant.

26 (i) Vendor means any person, firm, or corporation engaged in
27 selling or offering for sale any prepared food containers.

1 **§ 54C002. Requirements.**

2 Vendors or restaurants may offer for the sale or distribute disposable
3 containers to consumers. Vendors and restaurant shall not import, offer for
4 sale or distribute disposable containers unless such containers meet the
5 following criteria:

6 (a) Disposable containers made of paper or other plant based
7 material.

8 (b) Disposable containers made of plastic including plastics
9 made from bio-based polymers, shall be biodegradable or compostable;
10 and if otherwise not biodegradable or compostable, be made of highly
11 durable polypropylene (PP) material marked with the SPI resin
12 identification code five (5).

13 **§ 54C003. Enforcement and Penalties.**

14 The agency shall be responsible for the educational outreach and
15 enforcement of the provisions of this Chapter. Any entity violating the
16 provisions of this chapter shall be subject to a civil penalty not exceeding Five
17 Hundred Dollars (\$500) for the first offense; an amount not to exceed One
18 Thousand Dollars (\$1,000) for second offense; and an amount not to exceed
19 Ten Thousand Dollars (\$10,000) for any offenses thereafter during a one (1)-
20 year period. No more than one penalty shall be imposed upon any entity within
21 a seven (7)-day period. Any entity who was provided with a notice of violation
22 and imposed a civil penalty under this Chapter may appeal this decision and
23 request a hearing from the Agency pursuant to the Agency's procedures. Fees
24 collected under this Section shall be deposited into the Recycling Revolving
25 Fund to be used for enforcement of this Chapter and to Educate the consumer
26 and business community for alternative materials that could replace expanded
27 polystyrene (EPS) materials. The Administrator of the Agency, in

1 coordination with the Chief Technology Officer of the Office of Technology,
2 shall establish and promote an email address or other tool for digital reporting
3 that consumer and business may utilize to report violations, or to ask questions
4 regarding the implementation of this Chapter, with a prompt response from
5 the Agency.

6 **§ 54C004. Cost Recovery.**

7 The Guam Solid Waste Authority shall assess an Expanded Polystyrene
8 Surcharge, in addition to standard charges, of no less than thirty percent (30%)
9 of standard charges on all municipal waste derived from areas not subject to
10 the jurisdiction of this Chapter. The Guam Solid Waste Authority shall waive
11 the Expanded Polystyrene Surcharge upon ratification and maintenance of a
12 Memorandum of Agreement between the Guam Solid Waste Agency and
13 parties or areas not otherwise subject to the jurisdiction of this Chapter. The
14 Memorandum of agreement shall stipulate compliance with § 54C002 and
15 §54C005(a) of this Chapter.

16 **§ 54C005. Prohibition.**

17 (a) Beginning on January 1, 2023, no vendor or any other entity
18 licensed to do business in Guam shall sell any polystyrene foam containers,
19 except disposable containers listed in § 54C002 of this Chapter and no
20 restaurant or any other entity licensed to do business in Guam Shall serve
21 prepared food using polystyrene food containers.

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

26 **Section 3. Effective Date.** This Act shall become effective on January 1,
27 2023.