

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 927

Short Title: Ban Certain Polystyrene Products. (Public)

Sponsors: Representatives Hawkins, Everitt, Harrison, and Morey (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Environment, if favorable, Rules, Calendar, and Operations of the House

April 22, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO BAN THE SALE OF CERTAIN EXPANDED POLYSTYRENE FOOD SERVICE
3 PRODUCTS IN NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 9 of Chapter 130A of the General Statutes is amended by
6 adding a new Part to read:

7 "Part 2J. Management of Expanded Polystyrene.

8 "§ 130A-309.250. Definitions.

9 The following definitions apply in this Part:

10 (1) Expanded polystyrene. – Blown polystyrene and expanded and extruded
11 foams that are thermoplastic petrochemical materials utilizing a styrene
12 monomer and processed by techniques that include fusion of polymer spheres,
13 injection molding, foam molding, and extrusion-blow molding.

14 (2) Expanded polystyrene food service product. – A product made of expanded
15 polystyrene that is used for selling or providing food.

16 a. Expanded polystyrene food service products include:

- 17 1. Food containers.
- 18 2. Plates.
- 19 3. Hot and cold beverage cups.
- 20 4. Meat and vegetable trays.
- 21 5. Egg cartons.

22 b. Expanded polystyrene food service products do not include:

- 23 1. Prepackaged soup or other food that a food service business
24 sells or otherwise provides to its customers in expanded
25 polystyrene containers that have been packaged before receipt
26 by the food service business.
- 27 2. Food or beverages that have been packaged in expanded
28 polystyrene containers outside the State before receipt by the
29 food service business.
- 30 3. Materials used to package raw, uncooked, or butchered meat,
31 fish, poultry, or seafood for off-premises consumption.
- 32 4. Nonfoam polystyrene food service products.

33 (3) Food service business. – A business that sells or provides food for
34 consumption on or off the premises in the State, including all of the following:



* H 9 2 7 - V - 1 *

- a. Establishments selling food or beverages to the public, including restaurants, cafes, delicatessens, coffee shops, and mobile establishments such as vending carts or food trucks.
- b. Supermarkets and grocery stores.
- c. Movie theaters.
- d. Dinner theaters.
- e. Business and institutional cafeterias, including those operated by or on behalf of the State.

(4) School. – A public or nonpublic elementary or secondary school, community college, or institution of higher education.

"§ 130A-309.252. Prohibition.

(a) On or after July 1, 2021, a person may not sell or offer for sale in the State an expanded polystyrene food service product.

(b) On or after July 1, 2021, a food service business or school may not sell or provide food in an expanded polystyrene food service product.

(c) This section does not prohibit a person from storing a food storage product for later distribution outside the State.

"§ 130A-309.254. Waiver.

The Department may grant to the food service business or school a waiver from G.S. 130A-309.252(b) for a period of up to one year if the Department determines that compliance with this Part would present an undue hardship or a practical difficulty not generally applicable to other food service businesses or schools in similar circumstances.

"§ 130A-309.256. Local acts not preempted.

This Part does not affect the authority of a county or city to impose standards that are more stringent than the standards imposed by this Part.

"§ 130A-309.258. Outreach.

(a) The Department shall conduct a public education and outreach campaign before and during the implementation of this Part.

(b) The public education and outreach campaign required under subsection (a) of this section shall include, at a minimum, all of the following:

- (1) Contact with food service businesses, in consultation with relevant units of county government and relevant trade organizations.
- (2) Contact with schools, in consultation with the North Carolina Department of Public Instruction, the Community College System Office, and The University of North Carolina.
- (3) Distribution of information through State Internet and Web-based resources.
- (4) News releases and news events.

"§ 130A-309.260. Rule making authority.

The Department may adopt rules to implement this Part."

SECTION 2. G.S. 130A-22 reads as rewritten:

"§ 130A-22. Administrative penalties.

(a) The Secretary of Environmental Quality may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifteen thousand dollars (\$15,000) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State; and shall not exceed fifty thousand dollars (\$50,000) per day for a second or further violation involving the disposal of medical waste as

1 defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering
2 waters or lands of the State. The penalty shall not exceed thirty-two thousand five hundred dollars
3 (\$32,500) per day for a violation involving a voluntary remedial action implemented pursuant to
4 G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b). For
5 violations of Part 7 of Article 9 of this Chapter and G.S. 130A-309.10(m): (i) a warning shall be
6 issued for a first violation; (ii) the penalty shall not exceed two hundred dollars (\$200.00) for a
7 second violation; and (iii) the penalty shall not exceed five hundred dollars (\$500.00) for
8 subsequent violations. For violations of Part 2J of Article 9 of this Chapter: (i) a warning shall
9 be issued for a first violation, (ii) the penalty shall not exceed two hundred dollars (\$200.00) for
10 a second violation or a first violation not corrected within 90 days, and (iii) the penalty shall not
11 exceed five hundred dollars (\$500.00) for subsequent violations. If a person fails to pay a civil
12 penalty within 60 days after the final agency decision or court order has been served on the
13 violator, the Secretary of Environmental Quality shall request the Attorney General to institute a
14 civil action in the superior court of any county in which the violator resides or has his or its
15 principal place of business to recover the amount of the assessment. Such civil actions must be
16 filed within three years of the date the final agency decision or court order was served on the
17 violator.

18"

19 **SECTION 3.** This act becomes effective September 1, 2019, and applies to retail
20 sales made on or after that date.