

A-Engrossed
Senate Bill 543

Ordered by the Senate March 24
Including Senate Amendments dated March 24

Sponsored by Senators SOLLMAN, DEMBROW, Representative DEXTER; Senators PATTERSON, TAYLOR (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Prohibits food vendor from using polystyrene foam container in sales of prepared food. [*Prohibits food vendor from providing single-use foodware containers to consumer unless foodware containers meet certain criteria.*]

Prohibits person from selling or distributing polystyrene foam containers or polystyrene foam packaging peanuts.

Prohibits person from selling or distributing foodware containers containing **intentionally added** perfluoroalkyl or polyfluoroalkyl substances.

Prohibitions become operative January 1, 2025. Establishes civil penalties for violations.

[*Directs Department of Environmental Quality to establish certification program for compostable products.*]

A BILL FOR AN ACT

1
2 Relating to prohibitions for certain products; creating new provisions; and amending ORS 459.995.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in sections 1 to 4 of this 2023 Act:**

5 (1) **“Food vendor” means a business, organization or other person that sells prepared**
6 **food or offers prepared food for sale to the public, including, but not limited to, a store, shop**
7 **or other sales outlet, a restaurant, a delicatessen or a cart, truck or other vehicle from**
8 **which the business, organization or other person sells prepared food or offers prepared food**
9 **for sale.**

10 (2) **“Foodware container” includes bowls, plates, cups, lids, clamshells or other containers**
11 **or any other items used for serving or containing prepared food, including takeout food and**
12 **leftovers from partially consumed meals prepared by food vendors.**

13 (3) **“Perfluoroalkyl or polyfluoroalkyl substance” means a substance included in a class**
14 **of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.**

15 (4)(a) **“Polystyrene foam container” means a cooler or foodware container that is:**

16 (A) **Made of a polystyrene plastic foam;**

17 (B) **Made for the purpose of serving, containing, preserving or consuming prepared food;**
18 **and**

19 (C) **Ordinarily used once for a purpose described in subparagraph (B) of this paragraph**
20 **before being discarded.**

21 (b) **“Polystyrene foam container” does not include:**

22 (A) **A cooler or other container that is made of a polystyrene foam, that is intended for**
23 **more than one use and that is enclosed by a solid shell;**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (B) A tray or container used solely to store, ship or otherwise transport an ingredient
2 or food product that is not prepared food; or

3 (C) Polystyrene plastic material, other than polystyrene foam packaging peanuts, that is
4 used solely for packing or protecting other items during storage, shipping or other trans-
5 portation.

6 (5) "Polystyrene foam packaging peanuts" means loose fill material made of polystyrene
7 foam used to protect items during shipping or other transportation.

8 (6)(a) "Prepared food" means food or a beverage that:

9 (A) A food vendor prepares on the food vendor's premises or that another person pre-
10 pares and provides to the food vendor for sale to the public; and

11 (B) An individual may consume immediately or without the need for further or additional
12 preparation.

13 (b) "Prepared food" does not include meat, fish, eggs or produce, if the meat, fish, eggs
14 or produce are raw and have not been prepared for immediate consumption.

15 **SECTION 2.** A food vendor may not use a polystyrene foam container in selling, offering
16 for sale, serving or dispensing prepared food to a consumer.

17 **SECTION 3.** A person may not sell, offer for sale or distribute in or into this state
18 polystyrene foam containers or polystyrene foam packaging peanuts.

19 **SECTION 4.** A person may not sell, offer for sale, or distribute in or into this state a
20 foodware container containing intentionally added perfluoroalkyl or polyfluoroalkyl sub-
21 stances.

22 **SECTION 5.** The Environmental Quality Commission may adopt rules necessary to im-
23 plement sections 1 to 4 of this 2023 Act.

24 **SECTION 6.** ORS 459.995, as amended by section 15, chapter 102, Oregon Laws 2022, is
25 amended to read:

26 459.995. (1) Except as provided in subsection (2) of this section, in addition to any other penalty
27 provided by law:

28 (a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.705 to 459.790,
29 459A.005 to 459A.620, 459A.310 to 459A.335, 459A.860 to 459A.975 or 646A.080, or any rule or order
30 of the Environmental Quality Commission pertaining to the disposal, collection, storage or reuse or
31 recycling of solid wastes, as defined by ORS 459.005, or any rule or order pertaining to the disposal,
32 storage or transportation of waste tires, as defined by ORS 459.705, or any rule or order pertaining
33 to the sale of novelty items that contain encapsulated liquid mercury, incurs a civil penalty not to
34 exceed \$25,000 per day for each day of the violation.

35 (b) Any person who violates the provisions of ORS 459.420 to 459.426 incurs a civil penalty not
36 to exceed \$500 for each violation. Each battery that is disposed of improperly is a separate violation.
37 Each day an establishment fails to post the notice required under ORS 459.426 is a separate vio-
38 lation.

39 (c) For each day a city, county or metropolitan service district fails to provide the opportunity
40 to recycle as required under ORS 459A.005, the city, county or metropolitan service district incurs
41 a civil penalty not to exceed \$500 for each violation.

42 (d) Any person who violates the provisions of ORS 459.247 (1)(f) incurs a civil penalty not to
43 exceed \$500 for each violation. Each covered electronic device that is disposed of improperly is a
44 separate violation.

45 (e) Any retailer that violates the provisions of ORS 459A.825 (1) or (2)(b) or section 3, chapter

1 102, Oregon Laws 2022, incurs a civil penalty not to exceed \$100 per day for each day of the vio-
2 lation.

3 (f) Any producer or renovator that violates the provisions of ORS 459A.825 (1) or section 3,
4 chapter 102, Oregon Laws 2022, incurs a civil penalty not to exceed \$1,000 per day for each day of
5 the violation.

6 (g) Any stewardship organization that violates the provisions of ORS 459A.825 (2)(a), 459A.827,
7 459A.830 to 459A.837 or 459A.842 or sections 1 to 14, chapter 102, Oregon Laws 2022, incurs a civil
8 penalty not to exceed \$1,000 per day for each day of the violation.

9 **(h) Any food vendor that violates section 2 of this 2023 Act incurs a civil penalty not to**
10 **exceed \$100 for each day of the violation.**

11 **(i) Any person that violates section 3 or 4 of this 2023 Act incurs a civil penalty not to**
12 **exceed \$500 per day for each day of the violation.**

13 (2) Any product manufacturer or package manufacturer who violates ORS 459A.650 to 459A.665
14 or any rule adopted under ORS 459A.650 to 459A.665 incurs a civil penalty not to exceed \$1,000 per
15 day for each day of the violation. A violation of ORS 459A.650 to 459A.665 is not subject to addi-
16 tional penalties under subsection (1) of this section.

17 (3) Any civil penalty authorized by subsection (1) or (2) of this section shall be imposed in the
18 manner provided by ORS 468.135.

19 **SECTION 7. Sections 1 to 4 of this 2023 Act and the amendments to ORS 459.995 by sec-**
20 **tion 6 of this 2023 Act become operative on January 1, 2025.**

21