

Senate Bill 543

Sponsored by Senators SOLLMAN, DEMBROW, Representative DEXTER (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 **as introduced**.

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 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

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

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

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

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

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

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

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

(A) Made of a polystyrene plastic foam;

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

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

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

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

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

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

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 portation.

2 (5) “Polystyrene foam packaging peanuts” means loose fill material made of polystyrene
3 foam used to protect items during shipping or other transportation.

4 (6)(a) “Prepared food” means food or a beverage that:

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

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

9 (b) “Prepared food” does not include meat, fish, eggs or produce, if the meat, fish, eggs
10 or produce are raw and have not been prepared for immediate consumption.

11 **SECTION 2.** (1) A food vendor may not use a polystyrene foam container in selling, of-
12 fering for sale, serving or dispensing prepared food to a consumer.

13 (2) A food vendor may not provide to a consumer a foodware container that is intended
14 for a single use unless the foodware container:

15 (a) Is made from fiber-based materials;

16 (b) Has been certified as compostable under section 5 of this 2023 Act; or

17 (c) Is included on the uniform statewide collection list established under ORS 459A.914.

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

20 **SECTION 4.** A person may not sell, offer for sale, or distribute in or into this state a
21 foodware container containing perfluoroalkyl or polyfluoroalkyl substances.

22 **SECTION 5.** (1) The Department of Environmental Quality shall establish a certification
23 program for compostable products. Subject to subsection (2) of this section, a person that
24 meets the criteria established by the department may apply for authorization under the
25 program to certify that products sold or offered for sale in this state are compostable. Pro-
26 ducts certified under the program must:

27 (a)(A) Be readily accepted for composting and actually composted by a majority of cities,
28 counties or metropolitan service districts responsible for solid waste management in this
29 state; or

30 (B) Be reasonably expected to meet the requirements of subparagraph (A) of this para-
31 graph if the product is a new product;

32 (b) Consist of wood or natural fibers without any coatings, additives or toxic substances;
33 and

34 (c) Display on a label or other marking that the product has been certified under the
35 program established under this section.

36 (2) The department may not authorize a person to certify that a product is compostable
37 if the product is produced by the person, by a parent company or subsidiary company of the
38 person or by a similarly related entity.

39 (3) The Environmental Quality Commission may adopt rules necessary to implement this
40 section.

41 **SECTION 6.** The Environmental Quality Commission may adopt rules necessary to im-
42 plement sections 1 to 4 of this 2023 Act.

43 **SECTION 7.** The Department of Environmental Quality shall develop and implement a
44 public education and awareness campaign to inform the public about the requirements of
45 sections 1 to 4 of this 2023 Act. The campaign shall include, but need not be limited to:

1 **(1) Identification of the products that are prohibited for use or sale by sections 1 to 4 of**
2 **this 2023 Act on or after January 1, 2025; and**

3 **(2) Alternatives to those products.**

4 **SECTION 8.** ORS 459.995, as amended by section 15, chapter 102, Oregon Laws 2022, is
5 amended to read:

6 459.995. (1) Except as provided in subsection (2) of this section, in addition to any other penalty
7 provided by law:

8 (a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.705 to 459.790,
9 459A.005 to 459A.620, 459A.310 to 459A.335, 459A.860 to 459A.975 or 646A.080, or any rule or order
10 of the Environmental Quality Commission pertaining to the disposal, collection, storage or reuse or
11 recycling of solid wastes, as defined by ORS 459.005, or any rule or order pertaining to the disposal,
12 storage or transportation of waste tires, as defined by ORS 459.705, or any rule or order pertaining
13 to the sale of novelty items that contain encapsulated liquid mercury, incurs a civil penalty not to
14 exceed \$25,000 per day for each day of the violation.

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

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

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

25 (e) Any retailer that violates the provisions of ORS 459A.825 (1) or (2)(b) or section 3, chapter
26 102, Oregon Laws 2022, incurs a civil penalty not to exceed \$100 per day for each day of the vio-
27 lation.

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

31 (g) Any stewardship organization that violates the provisions of ORS 459A.825 (2)(a), 459A.827,
32 459A.830 to 459A.837 or 459A.842 or sections 1 to 14, chapter 102, Oregon Laws 2022, incurs a civil
33 penalty not to exceed \$1,000 per day for each day of the violation.

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

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

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

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

44 **SECTION 9. (1) Sections 1 to 4 of this 2023 Act and the amendments to ORS 459.995 by**
45 **section 8 of this 2023 Act become operative on January 1, 2025.**

1 **(2) The Department of Environmental Quality and the Environmental Quality Commis-**
2 **sion may take any action before the operative date specified in subsection (1) of this section**
3 **that is necessary to enable the department or the commission to exercise, on and after the**
4 **operative date specified in subsection (1) of this section, all the duties, functions and powers**
5 **conferred on the department and the commission by sections 1 to 4 of this 2023 Act and the**
6 **amendments to ORS 459.995 by section 8 of this 2023 Act.**

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