Bill No. 41-14
Concerning: Solid Waste (Trash) – Food Service Products – Packaging Materials – Requirements
Revised: October 30, 2014 Draft No. 6
Introduced: September 9, 2014
Enacted: January 20, 2015
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Riemer, Council Vice President Leventhal and Councilmember Elrich

AN ACT to:

(1) prohibit the use of certain expanded polystyrene food service products by food service businesses;
(2) require the use of compostable or recyclable food service ware by the County, County contractors or lessees, and food service businesses;
(3) prohibit the sale of certain expanded polystyrene food service products and polystyrene loose fill packaging;
(4) provide for enforcement; and
(5) generally amend County law regarding environmentally acceptable food service products and packaging materials.

By adding
Montgomery County Code
Chapter 48, Solid Waste (Trash)
Article VI, Disposable Food Service Products and Packaging Materials
Sections 48-52, 48-53, 48-54, 48-55, 48-56, 48-57, and 48-58

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets]	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets]]	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Article VI (Sections 48-52, 48-53, 48-54, 48-55, 48-56, 48-57, and 48-58) of Chapter 48 is added as follows:

ARTICLE VI. Disposable Food Service Products and Packaging Materials.

48-52. Definitions.

In this Article, the following terms have the meanings indicated:

ASTM standard means the American Society for Testing and Materials (ASTM) International Standards D6400 or D6868 for biodegradable and compostable plastics.

ASTM standard bioplastic means a plastic like product that meets the ASTM standard.

Compostable means material that will break down into, or otherwise become part of, usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner in an appropriate composting program or facility, or in a home compost pile or device. Compostable disposable food service ware includes ASTM standard bioplastics that are clearly labeled, preferably with a color symbol, such that any compost collector and processor can easily distinguish the compostable ASTM standard bioplastic from non-ASTM standard plastic.

Disposable food service ware means containers, bowls, plates, trays, cartons, cups, lids, straws, forks, spoons, knives, napkins, and other items that are designed for one-time use for beverages, prepared food, or leftovers from meals prepared by a food service business. The term "disposable food service ware" does not include items composed entirely of aluminum.

Expanded polystyrene means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by a number of techniques, including fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

28 *Expanded polystyrene food service products* means food containers, plates, hot
29 and cold beverage cups, meat and vegetable trays, egg cartons, and other
30 products made of expanded polystyrene and used for selling, providing, or
31 serving food that are:
32 (1) intended by the manufacturer to be used once for eating or
33 drinking; or
34 (2) generally recognized by the public as items to be discarded after
35 one use.
36 *Food service business* means a full-service restaurant, limited-service
37 restaurant, fast food restaurant, cafe, delicatessen, coffee shop, supermarket,
38 grocery store, vending truck or cart, food truck, business or institutional
39 cafeteria, including those operated by or on behalf of County departments and
40 agencies, and other business selling or providing food within the County for
41 consumption on or off the premises.
42 *Polystyrene loose fill packaging* means a void-filling packaging product made
43 of expanded polystyrene that is used as packaging fill. Polystyrene loose fill
44 packaging is commonly referred to as packing peanuts.
45 *Recyclable* means material that can be sorted, cleansed, and reconstituted in a
46 cost-effective manner using recycling collection programs provided in the
47 County for the purpose of using the altered form in the manufacture of a new
48 product. Recycling does not include burning, incinerating, converting or
49 otherwise thermally destroying solid waste.
50 **48-53. Prohibition on use of expanded polystyrene food service products.**
51 (a) A food service business must not sell or provide food in expanded
52 polystyrene food service products, regardless of where the food will be
53 consumed.
54 (b) Subsection (a) does not apply to:

55 (1) food or beverages that were filled and sealed in expanded
56 polystyrene containers outside of the County before a food
57 service business received them; or
58 (2) materials used to package raw, uncooked, or butchered meat, fish,
59 poultry, or seafood for off- premises consumption.
60 **48-54. Compostable or recyclable disposable food service ware required.**
61 (a) A County facility, agency, or department using disposable food service
62 ware must use compostable or recyclable disposable food service ware
63 unless the Executive determines that there is no suitable affordable
64 compostable or recyclable product available in accordance with Section
65 48-57.
66 (b) A County contractor or lessee using disposable food service ware must
67 use compostable or recyclable disposable food service ware unless the
68 Executive determines that there is no suitable affordable compostable or
69 recyclable product available in accordance with Section 48-57.
70 (c) A food service business selling or providing food or beverages for
71 consumption on or off premises in disposable food service ware must
72 use compostable or recyclable disposable food service ware unless the
73 Executive determines that there is no suitable affordable compostable or
74 recyclable product available in accordance with Section 48-57.[[;
75 provided, that this]] This subsection does not apply to:
76 (1) prepackaged food or beverages that were filled and sealed outside
77 of the County before a food service business received them; or
78 (2) materials used to package raw, uncooked, or butchered meat, fish,
79 poultry, or seafood for off-premises consumption.
80 **48-55. Education and outreach; [[Recyclable]] recyclable and compostable food**
81 **service ware list.**

82 (a) *Education and outreach.* The Executive must conduct an education
83 and outreach campaign before and during implementation of the
84 provisions of this Article. This campaign should include:
85 (1) informational mailers to and direct contact with affected
86 businesses; and
87 (2) distribution of information through County internet and web-
88 based resources; and
89 (3) news releases and news events.
90 (b) No later than 180 days after the effective date of this Act, the Executive
91 must publish a list of vendors offering affordable compostable or
92 recyclable disposable food service ware products. The Executive must
93 review and update this list annually for at least 5 years after it is first
94 published.
95 **48-56. Prohibition on sale.**
96 A person must not sell or offer for sale in the County:
97 (a) expanded polystyrene food service products; or
98 (b) polystyrene loose fill packaging.
99 **48-57. Exemptions.**
100 If the Executive determines that there is no available affordable compostable
101 or recyclable alternative to a disposable food service ware item, this item must be
102 listed on an exemption list and made available to the public. Sections 48-53 and 48-
103 54 do not apply to a disposable food service ware item on the exemption list or for
104 the first 6 months after an item is removed from the list. The Executive must review
105 and update the exemption list annually to determine whether any items should be
106 removed because an affordable compostable or recyclable alternative has become
107 available.
108 **48-58. Enforcement.**

109 (a) Any violation of this Article is a class B civil violation. Each day a
110 violation exists is a separate offense.
111 (b) The County Attorney [[or any affected party]] may file an action in a
112 court with jurisdiction to enjoin repeated violations of the Section.
113 **Sec. 2. Effective date.**
114 (a) The prohibition on use of expanded polystyrene food service products
115 contained in Section 48-53 and the prohibition on the sale of expanded
116 polystyrene food service products and polystyrene loose fill packaging
117 contained in Section 48-56 take effect on January 1, 2016.
118 (b) The requirement for a County facility, agency, department, contractor,
119 or lessee to use compostable or recyclable disposable food service ware
120 established by Subsections 48-54 (a) and (b) takes effect [[90 days after
121 this Act becomes law]] on January 1, 2016. Notwithstanding any other
122 provision, a County facility, agency, department, contractor, or lessee
123 may use disposable food service ware already purchased as of the
124 effective date of this Act until the supplies are exhausted or until
125 January 1, 2017, whichever is earlier, including disposable food service
126 ware that the County facility, agency, department, contractor or lessee is
127 obligated to purchase under any contracts in force on the effective date
128 of this Act.
129 (c) The requirement to use compostable or recyclable disposable food
130 service ware established by Subsection 48-54(c) takes effect on January
131 1, 2017.

132 *Approved:*

133 George Leventhal 1/22/15

George Leventhal, President, County Council — Date

134 *Approved:*

135

Isiah Leggett, County Executive — Date

136 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council — Date