

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: January 28, 2015
Effective: January 1, 2016
§ 48-54(c) January 1, 2017
Sunset Date: None
Ch. 1, Laws of Mont. Co. 2015

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

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

1 Sec. 1. Article VI (Sections 48-52, 48-53, 48-54, 48-55, 48-56, 48-57, and
2 48-58) of Chapter 48 is added as follows:

3 **ARTICLE VI. Disposable Food Service Products and Packaging Materials.**
4 **48-52. Definitions.**

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

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

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

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

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

23 Expanded polystyrene means blown polystyrene and expanded and extruded
24 foams that are thermoplastic petrochemical materials utilizing a styrene
25 monomer and processed by a number of techniques, including fusion of
26 polymer spheres (expandable bead polystyrene), injection molding, foam
27 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 selling 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 Jan 28 2015
Isiah Leggett, County Executive Date

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

137 Linda M. Lauer 1/30/15
Linda M. Lauer, Clerk of the Council Date