



House of Representatives

General Assembly

File No. 209

January Session, 2021

House Bill No. 6502

House of Representatives, March 30, 2021

The Committee on Environment reported through REP. BORER of the 115th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE USE OF CERTAIN POLYSTYRENE PRODUCTS, THE AVAILABILITY OF SINGLE-USE STRAWS, THE RELEASE OF CERTAIN BALLOONS AND THE COMPOSTABLE NATURE OF SINGLE-USE PRODUCE BAGS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) Not later than July 1, 2022,
2 each school district, regional school district, regional vocational
3 technical school and constituent unit of higher education shall develop
4 a plan for discontinuing the use in such district, school or constituent
5 unit, as applicable, of trays made from expanded polystyrene. Such plan
6 shall require the district, school or constituent unit, as applicable, to
7 discontinue such use not later than July 1, 2023, and to prepare for the
8 termination or amendment of any contract for the purchase of such trays
9 not later than July 1, 2022. Nothing in this section shall be construed to
10 require the development of such plan in any school district, regional
11 school district, regional vocational technical school or constituent unit
12 of higher education that discontinues the use of such trays in such
13 school district, school or constituent unit prior to July 1, 2022. For

14 purposes of this section, "expanded polystyrene" means blown
15 polystyrene and expanded and extruded foams that are thermoplastic
16 petrochemical materials utilizing a styrene monomer and processed by
17 any number of techniques, including, but not limited to, fusion of
18 polymer spheres, injection molding, foam molding and extrusion-blown
19 molding.

20 Sec. 2. (NEW) (*Effective July 1, 2023*) (a) For purposes of this section:

21 (1) "Consumer" means any business invitee of a restaurant or caterer;

22 (2) "Expanded polystyrene" means blown polystyrene and expanded
23 and extruded foams that are thermoplastic petrochemical materials
24 utilizing a styrene monomer and processed by any number of
25 techniques, including, but not limited to, fusion of polymer spheres,
26 injection molding, foam molding and extrusion-blown molding;

27 (3) "Single-use container" means any container made of expanded
28 polystyrene intended for the containment of food or beverage provided
29 by a restaurant or caterer to a consumer and customarily disposed of by
30 the consumer after such use;

31 (4) "Restaurant" has the same meaning as provided in subsection (b)
32 of section 19a-342 of the general statutes; and

33 (5) "Caterer" has the same meaning as "catering food service
34 establishment", as provided in section 19a-36g of the general statutes.

35 (b) (1) No owner or operator of a restaurant or catering business shall
36 provide or distribute a single-use container to a consumer.

37 (2) Any owner or operator who violates the provisions of this section
38 for a first violation shall be issued a warning. Any owner or operator
39 who violates the provisions of this section shall be fined two hundred
40 dollars for a second violation, five hundred dollars for a third violation
41 and one thousand dollars for a fourth or any subsequent violation. No
42 such owner or operator may be issued more than one violation per day.

43 (c) The provisions of this section shall not be construed to prohibit the
44 provision or distribution of a single-use container that is: (1) Filled and
45 sealed prior to receipt by a restaurant or caterer and that is subsequently
46 sold to a consumer, or (2) utilized by a butcher or store to contain raw
47 meat, including, but not limited to, beef, poultry, seafood or pork that is
48 sold to a consumer.

49 (d) Any local health department or health district or agent of the
50 Departments of Public Health, Consumer Protection and Energy and
51 Environmental Protection may enforce the provisions of this section. In
52 the event of enforcement by a local health department or health district,
53 one-half of any fine imposed pursuant to this section shall be remitted
54 to the municipality where such violation occurred.

55 (e) Not later than February 1, 2024, the Commissioners of Public
56 Health, Consumer Protection and Energy and Environmental Protection
57 shall jointly submit a report, in accordance with the provisions of section
58 11-4a of the general statutes, to the joint standing committees of the
59 General Assembly having cognizance of matters relating to the
60 environment, public health and consumer protection on the
61 enforcement of the provisions of this section and the need to establish a
62 hardship waiver from the provisions of this section for any restaurant
63 or caterer with a demonstrated financial hardship directly caused by the
64 provisions of this section.

65 (f) Nothing in this section shall be construed to prohibit the
66 manufacture of single-use containers in this state or the sale of such
67 single-use containers by a person other than a restaurant or caterer.

68 Sec. 3. (NEW) (*Effective January 1, 2022*) (a) For purposes of this
69 section:

70 (1) "Consumer" means any person who is a business invitee of a full-
71 service restaurant;

72 (2) "Single-use plastic straw" means a single-use, disposable tube
73 made predominantly of plastic derived from either petroleum or a

74 biologically based polymer, such as corn or other plant sources, used to
75 transfer a beverage from a container to the mouth of the person drinking
76 the beverage. "Single-use plastic straw" does not include a straw made
77 from nonplastic materials, including, but not limited to, paper, pasta,
78 sugar cane, wood, metal or bamboo;

79 (3) "Full-service restaurant" means any establishment with the
80 primary business purpose of serving food, where food may be
81 consumed on the premises, and where all of the following actions are
82 taken by an employee of the establishment:

83 (A) The consumer is escorted or assigned to an assigned eating area.
84 The employee may choose the assigned eating area or may seat the
85 consumer according to the consumer's need for accommodation or other
86 request;

87 (B) The consumer's food and beverage orders are taken after the
88 consumer is seated at the assigned seating area;

89 (C) The food and beverage orders are delivered directly to the
90 consumer;

91 (D) Any requested items associated with the consumer's food or
92 beverage order are brought to the consumer; and

93 (E) The check for payment of such food or beverage order is delivered
94 directly to the consumer at the assigned eating area.

95 (b) No owner or operator of a full-service restaurant shall provide a
96 single-use plastic straw to a consumer unless requested by the
97 consumer, except such owner or operator may provide a single-use
98 plastic straw to any person with a disability. Nothing in this section shall
99 be construed to require any such owner or operator who does not
100 otherwise provide single-use plastic straws to consumers to provide
101 consumers with such straws.

102 (c) The provisions of this section may be enforced by any municipal
103 health department or district department of health that has jurisdiction

104 over the subject full-service restaurant. The owner or operator of a full-
105 service restaurant that violates the provisions of this section shall be
106 issued a warning for the first and second violations of the provisions of
107 this section. Any such owner or operator who violates the provisions of
108 this section on a third or subsequent occasion shall be fined twenty-five
109 dollars for each day such full-service restaurant is in violation provided
110 such fines shall not exceed three hundred dollars in any year.

111 (d) Nothing in this section shall be construed to prevent any
112 municipality from adopting and implementing an ordinance or rule that
113 would further restrict an owner or operator of a full-service restaurant
114 from providing a single-use plastic straw to a consumer, provided no
115 such ordinance or rule shall prohibit any such owner or operator from
116 providing a single-use plastic straw to a person with a disability.

117 Sec. 4. Section 26-25c of the general statutes is repealed and the
118 following is substituted in lieu thereof (*Effective October 1, 2021*):

119 (a) No person, nonprofit organization, firm or corporation, including
120 the state and its political subdivisions, shall knowingly release, organize
121 the release of or intentionally cause to be released into the atmosphere
122 [within a twenty-four-hour period ten or more] helium or other lighter-
123 than-air gas balloons in the state.

124 (b) Any violation of subsection (a) of this section shall be an
125 infraction.

126 Sec. 5. (NEW) (*Effective from passage*) (a) On or before September 1,
127 2021, the Commissioner of Energy and Environmental Protection shall
128 accept an application on behalf of a manufacturer of a single-use
129 produce bag for the performance of a study, at the request of said
130 commissioner, by the Connecticut Academy of Science and Engineering
131 to determine if a compostable single-use produce bag is available for use
132 that does not adversely impact the environment, including the land, air
133 and waters of the state. Any such application shall require the
134 manufacturer of such single-use produce bag to disclose the chemical
135 constituents or composition of such bag. Upon receipt of any such

136 application, in a format as prescribed by the commissioner, the
137 commissioner shall request the Connecticut Academy of Science and
138 Engineering to perform such study. Said academy may establish a fee
139 for the performance of such study and such fee shall be remitted by the
140 applicant to the Department of Energy and Environmental Protection.
141 Upon receipt of such request and such fee from the commissioner, said
142 academy shall commence such study. Such study shall, at a minimum,
143 consist of: (1) A study committee appointed by said academy to oversee
144 such study, (2) the use of an academy-selected research team with
145 expertise in matters relating to compostable single-use produce bags to
146 conduct relevant research for such study, including, but not limited to,
147 the percentage of decomposition and the length of time for such
148 decomposition, and to author a study report, and (3) study committee
149 meetings that afford the opportunity for such applicant, department
150 and interested persons to obtain information concerning the study's
151 process. The academy shall complete any such study and issue a final
152 study report for such study to the commissioner not later than January
153 15, 2022. Upon receipt of such final study report, the commissioner shall
154 review such final study report and, not later than February 1, 2022,
155 forward such final study report and any recommendations of said
156 academy for legislation concerning the use of compostable single-use
157 produce bags to the joint standing committee of the General Assembly
158 having cognizance of matters relating to the environment. For the
159 purposes of this section, "single-use produce bag" means a bag provided
160 by a store, as defined in section 22a-246a of the general statutes, to
161 contain meat, seafood, loose produce or other unwrapped food items.

162 (b) Any information or materials submitted by an applicant to the
163 Department of Energy and Environmental Protection or the Connecticut
164 Academy of Science and Engineering in connection with the
165 performance of the study described in subsection (a) of this section shall
166 not be subject to disclosure pursuant to chapter 14 of the general statutes
167 provided such applicant indicates to the department or academy, at the
168 time of submission, information or materials that such applicant deems
169 a trade secret or privileged in any manner.

| | | |
|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>from passage</i> | New section |
| Sec. 2 | <i>July 1, 2023</i> | New section |
| Sec. 3 | <i>January 1, 2022</i> | New section |
| Sec. 4 | <i>October 1, 2021</i> | 26-25c |
| Sec. 5 | <i>from passage</i> | New section |

ENV *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 22 \$ | FY 23 \$ |
|---|-----------------------------|----------|-----------------|
| Technical Education and Career System | GF - Cost | None | See Below |
| Department of Energy and Environmental Protection | GF - Revenue Gain | 30,000 | None |
| Consumer Protection, Dept.; Public Health, Dept.; Department of Energy and Environmental Protection | GF - Potential Revenue Gain | None | Less than 2,500 |

Note: GF=General Fund

Municipal Impact:

| Municipalities | Effect | FY 22 \$ | FY 23 \$ |
|-------------------------------------|--------------------------------------|----------|-------------------------|
| Local and Regional School Districts | STATE MANDATE ¹ - Cost | None | 2-2.8 million statewide |
| Various Municipalities | Potential Revenue Gain | None | Less than 7,500 |

Explanation

The bill creates various new environmental laws regarding plastics.

Section 1 requires each school district, regional school district, regional vocational technical school, and constituent unit of higher education to develop a plan by July 1, 2022, to discontinue use of

¹ State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

expanded polystyrene trays. The bill specifies that each plan must require (1) discontinuing use of the trays by July 1, 2023, and (2) preparing to end or amend any purchasing contracts for the trays by July 1, 2022. The plan requirement is not anticipated to result in a fiscal impact to local and regional school districts or the regional vocational technical schools, as they have staff with the purchasing experience necessary to amend existing contracts and create the plans. This section of the bill also has no fiscal impact to the constituent units, as they are not currently using expanded polystyrene trays and therefore are not required to develop plans.

To the extent that each plan's requirements are followed, the bill results in a state mandate and a statewide annual cost to local and regional school districts, including the Connecticut Technical Education and Career System, of up to approximately \$2 million to \$2.8 million, beginning as early as FY 23 and taking full effect in FY 24, associated with discontinuing the purchase and use of the trays.

The cost per district will vary by the size of the district, the number of trays used, and the specific contract. It is estimated that replacing polystyrene trays with trays made of recycled materials results in an increased cost of \$18 to \$25 for each case of 500 trays. Connecticut public schools provide 46 million lunches and 18 million breakfasts annually. While the bill does not specifically state that districts must use trays made of recycled materials, it is the most common replacement of polystyrene trays.

Assuming that a tray is used for each lunch, the additional statewide cost for purchasing lunch trays made of recycled materials is approximately \$1.7 million to \$2.3 million. Assuming 50% of breakfast meals are served with a tray, the statewide cost for breakfast trays is between \$324,000 and \$450,000.

The cost to each district for purchasing replacement trays will vary. A small district serving approximately 350,000 meals will incur annual additional costs of approximately \$12,600 to \$17,500. A medium sized district serving 1.8 million meals will incur annual costs of

approximately \$64,800 to \$90,000. Larger districts serving 2.5 million meals will incur annual costs of \$90,000 to \$125,000.

If a district instead purchases reusable plastic trays to replace all polystyrene trays, a more significant cost results. It is estimated that reusable plastic trays average \$10-\$12 per tray. In addition to the larger one-time cost of purchasing the trays, districts would incur additional ongoing, significant costs related to staff, dishwashing equipment, plumbing, electrical, and maintenance costs.

Section 2 prohibits restaurants or caterers, beginning on January 1, 2021, from providing single-use expanded polystyrene food and beverage containers to customers, with certain exceptions. It creates a set of penalties for violations of the bill's provisions.

Under the bill, a local health department or health district, the Departments of Public Health (DPH), Consumer Protection (DCP), or DEEP may enforce the ban. To the extent, a local health department or health district enforces the prohibition, half of the fine must be remitted to the municipality where the violation occurred. It is estimated that less than \$5,000 will be generated annually from violations of the bill's provisions.

Section 3 prohibits a full-service restaurant from automatically providing customers with a plastic straw, with certain exceptions. It establishes fines for violations and specifies that a municipal health district may enforce the bill's provisions. This prohibition is also anticipated to result in a revenue gain to the municipality in which the violation occurs, anticipated to be less than \$2,500 annually.

Section 4 prohibits the intentional releasing of helium or gas balloons into the atmosphere and creates an infraction for violations. This has no fiscal impact as no fines have been collected under this statute for the past twelve years.

Section 5 requires the DEEP commissioner to accept an application accompanied with a fee (on behalf of a single-use produce bag

manufacturer) for a study to be performed by the Connecticut Academy for Science and Engineering on certain plastic food bags, by September 1, 2021. This is anticipated to result in a revenue gain to DEEP of approximately \$30,000 in FY 22 associated with remittance of the fee.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of container and straw violations and the extent of tray use among school districts.

OLR Bill Analysis**HB 6502*****AN ACT CONCERNING THE USE OF CERTAIN POLYSTYRENE PRODUCTS, THE AVAILABILITY OF SINGLE-USE STRAWS, THE RELEASE OF CERTAIN BALLOONS AND THE COMPOSTABLE NATURE OF SINGLE-USE PRODUCE BAGS.*****SUMMARY**

This bill:

1. requires the phase out of expanded polystyrene trays in certain schools;
2. prohibits restaurants and catering businesses from distributing single-use expanded polystyrene food and beverage containers to customers, beginning July 1, 2023;
3. prohibits full-service restaurants from providing a customer a single-use plastic straw unless the customer requests it, beginning January 1, 2022;
4. prohibits intentional releases of helium balloons, beginning October 1, 2021; and
5. requires the Department of Energy and Environmental Protection (DEEP) commissioner to ask the Connecticut Academy of Science and Engineering (CASE) to study whether a compostable single-use produce bag is available for use that does not adversely affect the environment.

Under the bill, CASE must complete the study and report its findings to the DEEP commissioner by January 15, 2022. The commissioner must then review the report and forward it and CASE's legislative recommendations, if any, to the Environment Committee by February

1, 2022.

EFFECTIVE DATE: Upon passage, except the provision on (1) helium balloons is effective October 1, 2021; (2) single-use plastic straws is effective January 1, 2022; and (3) single-use polystyrene containers is effective July 1, 2023.

§ 1 — EXPANDED POLYSTYRENE TRAYS IN SCHOOLS

The bill:

1. requires each school district, regional school district, regional vocational technical school, and constituent unit of higher education to develop a plan by July 1, 2022, to discontinue use of expanded polystyrene trays;
2. calls for the plans to require (a) discontinuing use of the trays by July 1, 2023, and (b) preparing to end or amend any purchasing contracts for the trays by July 1, 2022; and
3. exempts a district or school that stops using these trays before July 1, 2022, from having to develop a plan.

The “constituent units of higher education” are UConn (all campuses) and the Connecticut State Colleges and Universities (four state universities, 12 community colleges, and Charter Oak State College)(CGS § 10a-1).

Under the bill, “expanded polystyrene” means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques, including fusion of polymer spheres and injection, foam, or extrusion molding.

§ 2 — SINGLE-USE POLYSTYRENE CONTAINERS

Beginning July 1, 2023, the bill bans restaurants and caterers from providing or distributing single-use expanded polystyrene food and beverage containers to customers. It exempts from the ban containers (1) filled and sealed before being received by a restaurant or caterer or (2)

used by a butcher or store to hold raw meat.

Under the bill, a “restaurant” is a space in a suitable and permanent building that is kept, used, maintained, advertised, and held out to the public as a place where meals are regularly sold to the public. A “caterer” is a business involved in (1) selling or distributing food or drink prepared in bulk in one location for retail service in another location or (2) preparing and serving food in a venue that is not under the caterer’s control.

The owner or operator of a restaurant or caterer that violates the ban must receive a warning for a first violation, \$250 fine for a second violation, \$500 fine for a third violation, and \$1,000 fine for a subsequent violation. A restaurant or caterer can only be issued one violation per day.

Under the bill, a local health department or health district, the Department of Public Health (DPH), the Department of Consumer Protection (DCP), or DEEP may enforce the ban. If a local health department or health district enforces it, then half of the imposed fine must be remitted to the municipality where the violation occurred.

The bill states that it does not prohibit manufacturing single-use expanded polystyrene containers in the state or their sale by someone other than restaurants and caterers.

By February 1, 2024, the DPH, DCP, and DEEP commissioners must jointly submit a report to the Environment, Public Health, and General Law committees on the law’s enforcement and the need to establish a hardship waiver for any restaurant or caterer with a demonstrated financial hardship directly caused by the law.

§ 3 — SINGLE-USE PLASTIC STRAWS

Beginning January 1, 2022, the bill prohibits a full-service restaurant owner or operator from providing a customer a single-use plastic straw unless the customer requests one. However, it allows the owner or operator to provide a single-use plastic straw to someone with a

disability. The bill specifies that it does not require an owner or operator who does not otherwise provide these straws to do so.

Under the bill, an owner or operator who violates the bill's provisions must be issued a warning for a first or second violation and a fine for a third or subsequent violation. The fine is \$25 for each day of violation, up to \$300 in a year. A municipal or district health department with jurisdiction over the restaurant may enforce the bill's provisions.

The bill states that it does not prevent a municipality from adopting and implementing an ordinance or rule further restricting a full-service restaurant from providing customers single-use plastic straws. But the ordinance or rule cannot prohibit a restaurant from providing a single-use plastic straw to someone with a disability.

Full-Service Restaurant Defined

Under the bill, a "full-service restaurant" is an establishment that primarily serves food that may be consumed on site and where an employee does the following:

1. escorts and seats the customer,
2. takes the customer's food and beverage order after the customer is seated,
3. delivers the order and any requested related items to the customer, and
4. brings the check for the order to the customer's table.

§ 4 — HELIUM BALLOONS

Beginning October 1, 2021, the bill prohibits knowingly releasing, organizing the release of, or intentionally causing the release of helium or lighter-than-air gas balloons into the atmosphere. Current law limits releases to fewer than 10 balloons within a 24-hour period. A violation of the ban is an infraction.

§ 5 — SINGLE-USE PRODUCE BAG STUDY

By September 1, 2021, the bill requires the DEEP commissioner to accept an application on behalf of a single-use produce bag manufacturer for a study at the commissioner's request by CASE. The study must determine whether a compostable single-use produce bag is available for use that does not adversely impact the environment. A "single-use produce bag" is a bag provided by a store to contain meat, seafood, loose produce, or other unwrapped food items.

Under the bill, the application must (1) require the manufacturer to disclose the bag's chemical parts or composition and (2) be in a form the commissioner prescribes.

The commissioner must ask CASE to perform the study once she receives the application. CASE may establish a fee for the study, which the manufacturer must pay through DEEP. After it receives the request and fee from the commissioner, CASE must begin the study, which must include:

1. a CASE-appointed study committee to oversee it;
2. a CASE-selected research team with compostable single-use produce bag expertise to (a) conduct relevant research, including the bag's decomposition percentage and duration, and (b) author a study report; and
3. study committee meetings that allow the applicant, DEEP, and interested people to obtain information about the study.

The bill requires CASE to complete the study and issue the final study report to the DEEP commissioner by January 15, 2022. The commissioner must review the report and forward it and CASE's legislative recommendations, if any, to the Environment Committee by February 1, 2022.

The act exempts from disclosure under the Freedom of Information Act any study-related information or materials submitted by an applicant to DEEP or CASE that the applicant indicates at submission is a trade secret or privileged.

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 22 Nay 11 (03/12/2021)