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DELAWARE STATE SENATE  
151st GENERAL ASSEMBLY

SENATE BILL NO. 134

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE USE OF SINGLE-SERVICE PLASTIC IMPLEMENTS AND POLYSTYRENE CONTAINERS IN FOOD ESTABLISHMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           WHEREAS, discarded single-use plastic items, such as straws, stirrers, and cocktail picks, and packaging from  
2 food, beverages, and other products constitute a significant and growing portion of the Delaware waste stream; and

3           WHEREAS, discarded single-use plastic items and packaging from food, beverages, and other products constitute  
4 a significant and growing portion of litter found in Delaware's parks, beaches, streets, and other public spaces; and

5           WHEREAS, single-use plastic items are not recyclable and polystyrene products are rarely recycled; and

6           WHEREAS, non-biodegradable and non-recyclable materials pose a challenge to any environmentally and  
7 financially responsible solid waste management program; and

8           WHEREAS, regulation of food packaging is necessary to encourage a recyclable waste stream and to reduce the  
9 volume of solid waste disposed and the economic and environmental costs of waste management; and

10          WHEREAS, polystyrene products and expanded polystyrene products are either discarded in our landfills or  
11 become litter where they can harm humans and wildlife, including marine animals; and

12          WHEREAS, many food establishments have already stopped using polystyrene products and there are recyclable  
13 or compostable alternatives for all polystyrene products; and

14          WHEREAS, polystyrene contains the toxic substances styrene and benzene, which are suspected carcinogens and  
15 neurotoxins that are hazardous to humans; and

16          WHEREAS, hot foods and liquids, in particular, start to melt and break down expanded polystyrene upon contact,  
17 causing some toxins to be absorbed into the bloodstream and tissue of anyone who consumes foods or liquids which have  
18 been in expanded polystyrene containers; and

19          WHEREAS, once used for food, expanded polystyrene cannot be recycled; and

20          WHEREAS, the Department of Health and Social Services already regulates food establishments for health and  
21 safety measures and conducts routine enforcement inspections.

22 NOW, THEREFORE:

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

24 Chapter 30P. Plastic and Polystyrene Waste in Food Establishments.

25 § 3001P. Definitions.

26 For purposes of this chapter:

27 (1) “Cocktail pick” means a slender, disposable implement, either hollow or solid, used to garnish a  
28 beverage, including to hold an olive or fruit.

29 (2) “Coffee stirrer” means a slender, disposable implement, either hollow or solid, used to stir a beverage,  
30 including coffee, cocoa, and tea.

31 (3) “Delaware Food Code” means the State of Delaware Food Code, Regulation 4458 of Title 16 of the  
32 Delaware Administrative Code.

33 (4) “Plastic” means any material made of polymeric organic compounds and additives that can be shaped  
34 by flow. “Plastic” does not include items made from biodegradable materials.

35 (5) “Polystyrene” means both of the following:

36 a. A product labeled as polystyrene under § 6092 of Title 7 with the number 6 placed within 3  
37 triangulated arrows and the letters “PS” placed below the triangle of arrows.

38 b. A thermoplastic petrochemical material utilizing a styrene monomer, including clear or solid  
39 polystyrene, and processed using techniques that include fusion of polymer spheres, injection molding,  
40 form molding, and extrusion-blow molding.

41 (6) “Sandwich pick” means a slender, disposable implement, either hollow or solid, used to pierce a  
42 sandwich.

43 (7) “Straw” means a disposable tube used to transfer a beverage from a container to the mouth of the  
44 person drinking the beverage, including drinking straws and cocktail straws. “Straw” does not include a straw  
45 made from non-plastic materials, including paper, pasta, sugar cane, wood, or bamboo, or a straw that is attached  
46 to pre-packaged goods, including juice boxes.

47 (8) The following terms mean as defined under the Delaware Food Code:

48 a. “Consumer”.

49 b. “Core item”.

50 c. “Food establishment”.

51 d. “Packaged”.

52 e. “Ready-to-eat food”.

53 f. “Single-service” means as “single-service article” is defined.”

54 § 3002P. Restrictions.

55 (a) A food establishment may not provide a single-service plastic straw, unless requested by a consumer. A food  
56 establishment that provides straws must strive to ensure that single-service plastic straws always remain available upon  
57 request.

58 (b) A food establishment may not provide a single-service plastic coffee stirrer, cocktail pick, or sandwich pick to  
59 a consumer.

60 (c) A food establishment may not provide ready-to-eat food in a polystyrene container to a consumer.

61 (d) Food establishments are encouraged not to use or sell food packaged outside of the food establishment in  
62 polystyrene containers.

63 § 3003P. Penalties.

64 A violation of § 3002P of this title is a core violation under the Delaware Food Code.

65 § 3004P. Regulations.

66 The Secretary shall adopt the rules and procedures necessary to implement this chapter.

67 Section 2. This Act takes effect on January 1, 2021.

#### SYNOPSIS

This Act reduces risks to the environment and public health by prohibiting food establishments from providing any of the following:

1. A single-service plastic straw, unless requested by a consumer.
2. A single-service plastic coffee stirrer, cocktail pick, or sandwich pick.

In addition, this Act encourages food establishments not to use or sell food packaged outside of the food establishment in expanded polystyrene containers.

Author: Senator Paradee