
Environment & Energy Committee

E2SSB 6213

Brief Description: Concerning certain expanded polystyrene products.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Das, Carlyle, Van De Wege, Dhingra, Kuderer, Lovelett, Nguyen, Billig, Rolfes, Saldaña, Darneille, Hasegawa, Liias, Keiser, Pedersen, Stanford, Frockt, Wellman and Wilson, C.).

Brief Summary of Engrossed Second Substitute Bill

- Prohibits the sale or distribution of certain polystyrene food service products, void filling packaging products, and coolers in or into the state.
- Requires that all sold and distributed void filling packaging products be compostable.
- Directs the Department of Ecology to enforce the prohibition against manufacturers.

Hearing Date: 2/25/20

Staff: Emily Williams (786-7291) & Jacob Lipson (786-7196).

Background:

Polystyrene foam.

Polystyrene foam, commonly referred to as Styrofoam, is a type of plastic made of interconnected styrene monomers that is processed into lightweight foam by various techniques. Polystyrene foam is used for various commercial and consumer applications, including food service products, packaging, and insulation.

Plastic bottles and rigid plastic containers made of polystyrene must be labeled pursuant to state and federal standards. Rigid plastic containers are formed or molded containers intended for single use, composed predominantly of plastic resin, and have a relatively inflexible shape with a capacity of eight ounces or more but less than five gallons.

A number of local governments in Washington have adopted ordinances addressing polystyrene foam products.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Compostable Products.

Under a state law enacted in 2019, materials labeled as compostable must meet certain standards, including that they must be comprised of only wood or fiber-based substrate, or must meet the American Society of Testing and Materials (ASTM) standards for products designed to be composted in municipal facilities.

Summary of Bill:

Beginning June 1, 2023, the sale or distribution of certain expanded polystyrene products in or into the state is prohibited.

This restriction covers:

- food service products, including clamshell containers, cups, and plates;
- void filling packaging products such as packing peanuts; and
- portable containers used for cold storage, subject to some exceptions outlined below.

The restriction does not cover:

- portable containers used for cold storage for drugs, medical devices, and biological materials;
- portable containers used for cold storage for shipping perishable commodities to wholesale or retail establishments;
- packaging for raw, uncooked, or butchered meat, fish, poultry, or seafood;
- packaging for fruits or vegetables; and
- egg cartons.

Expanded polystyrene is defined as blown polystyrene and expanded and extruded foams that are made of thermoplastic petrochemical materials which utilize a styrene monomer. Expanded polystyrene can be processed by various techniques including fusion of polymer spheres, injection molding, foam molding, and extrusion-blow molding.

Beginning June 1, 2023, any void filling packaging products that are sold or distributed in the state must be compostable.

A manufacturer who sells or distributes restricted polystyrene products in or into the state is subject to a civil penalty of \$250 or less for each violation if it is the manufacturer's first offense. For subsequent offenses, the manufacturer is subject to a civil penalty of \$1,000 or less. These civil violations are appealable to the Pollution Control Hearings Board, and penalties are deposited in the Model Toxics Control Operating Account.

A manufacturer includes a person, business, organization, or governmental entity that:

- produces the prohibited products; or
- is an importer or domestic distributor of a product sold or offered for sale in or into the state.

The Department of Ecology (Ecology) may adopt rules to implement these prohibitions. Ecology must:

- post information about the prohibitions on its website and must develop culturally-appropriate and translated materials for diverse ethnic populations;
- provide technical assistance to manufacturers, as requested; and
- provide written notification to manufacturers who are in violation of the prohibition.

City, town, county, or municipal corporations are preempted from enacting ordinances on or after June 1, 2020, that restrict products covered by the restrictions on expanded polystyrene products in state law.

Appropriation: Available.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.