

**First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 19-1099.01 Jennifer Berman x3286

**SENATE BILL 19-243**

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**SENATE SPONSORSHIP**

**Moreno and Foote,**

**HOUSE SPONSORSHIP**

**Cutter and Singer,**

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**Senate Committees**

State, Veterans, & Military Affairs

**House Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING A PROHIBITION AGAINST A RETAIL FOOD**  
102              **ESTABLISHMENT'S DISTRIBUTION OF AN EXPANDED**  
103              **POLYSTYRENE PRODUCT FOR USE AS A CONTAINER FOR**  
104              **READY-TO-EAT FOOD INTENDED FOR OFF-PREMISES**  
105              **CONSUMPTION.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

Effective January 1, 2024, the bill prohibits a retail food establishment from distributing an expanded polystyrene product for use

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

as a container for off-premises ready-to-eat food in the state. The executive director of the department of public health and environment or the executive director's designee may, through the attorney general, seek injunctive relief against a retail food establishment that violates the prohibition.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 5 to article  
3 17 of title 25 as follows:

4 PART 5

5 EXPANDED POLYSTYRENE

6 **25-17-501. Definitions.** AS USED IN THIS PART 5, UNLESS THE  
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH  
9 AND ENVIRONMENT.

10 (2) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF  
11 THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

12 (3) "EXPANDED POLYSTYRENE" MEANS BLOWN POLYSTYRENE AND  
13 EXPANDED OR EXTRUDED FOAMS THAT ARE THERMOPLASTIC  
14 PETROCHEMICAL MATERIALS UTILIZING A STYRENE MONOMER AND  
15 PROCESSED BY ONE OR MORE OF A NUMBER OF TECHNIQUES, INCLUDING:

16 (a) FOR EXPANDABLE BEAD POLYSTYRENE, FUSION OF POLYMER  
17 SPHERES;

18 (b) INJECTION MOLDING;

19 (c) FOAM MOLDING; AND

20 (d) FOR EXTRUDED FOAM POLYSTYRENE, EXTRUSION-BLOW  
21 MOLDING.

22 (4) (a) "FOOD" MEANS ANY RAW, COOKED, OR PROCESSED EDIBLE  
23 SUBSTANCE, ICE, BEVERAGE, OR INGREDIENT USED OR INTENDED FOR USE

1 OR FOR SALE IN WHOLE OR IN PART FOR HUMAN CONSUMPTION.

2 (b) "FOOD" DOES NOT MEAN A DRUG, AS THAT TERM IS DEFINED IN  
3 SECTION 25-5-402 (9).

4 (5) "OFF-PREMISES READY-TO-EAT FOOD" MEANS FOOD THAT IS  
5 COOKED OR OTHERWISE PREPARED IN ADVANCE FOR IMMEDIATE  
6 CONSUMPTION OFF THE RETAIL FOOD ESTABLISHMENT'S PREMISES.

7 (6) "RETAIL FOOD ESTABLISHMENT" HAS THE SAME MEANING AS  
8 SET FORTH IN SECTION 25-4-1602 (14).

9 **25-17-502. Prohibition on use of expanded polystyrene**  
10 **product food containers - enforcement.** (1) EXCEPT AS PROVIDED IN  
11 SUBSECTION (2) OF THIS SECTION, EFFECTIVE JANUARY 1, 2024, A RETAIL  
12 FOOD ESTABLISHMENT SHALL NOT DISTRIBUTE AN EXPANDED  
13 POLYSTYRENE PRODUCT FOR USE AS A CONTAINER FOR OFF-PREMISES  
14 READY-TO-EAT FOOD IN THE STATE.

15 (2) IF A RETAIL FOOD ESTABLISHMENT PURCHASED EXPANDED  
16 POLYSTYRENE PRODUCTS BEFORE JANUARY 1, 2024, THE RETAIL FOOD  
17 ESTABLISHMENT MAY DISTRIBUTE ANY REMAINING INVENTORY OF THE  
18 EXPANDED POLYSTYRENE PRODUCTS THEN PURCHASED FOR USE AS  
19 CONTAINERS FOR OFF-PREMISES READY-TO-EAT FOOD IN THE STATE UNTIL  
20 THE INVENTORY IS DEPLETED. THE DEPARTMENT MAY REQUEST THAT THE  
21 RETAIL FOOD ESTABLISHMENT FURNISH TO THE DEPARTMENT ANY  
22 PURCHASE INVOICES, DISTRIBUTION RECEIPTS, OR OTHER DOCUMENTATION  
23 THAT DEMONSTRATES THAT THE RETAIL FOOD ESTABLISHMENT ACQUIRED  
24 THE EXPANDED POLYSTYRENE PRODUCTS BEFORE JANUARY 1, 2024.

25 (3) THE EXECUTIVE DIRECTOR, ON THE EXECUTIVE DIRECTOR'S  
26 OWN MOTION OR UPON A COMPLAINT BY ANY PERSON, MAY INVESTIGATE  
27 AN ALLEGED VIOLATION OF THIS PART 5. IF THE EXECUTIVE DIRECTOR

1 BELIEVES THAT A RETAIL FOOD ESTABLISHMENT HAS VIOLATED THIS PART  
2 5, THE EXECUTIVE DIRECTOR MAY REQUEST THAT THE ATTORNEY GENERAL  
3 SEEK AN INJUNCTION IN ANY COURT OF COMPETENT JURISDICTION TO  
4 ENJOIN THE RETAIL FOOD ESTABLISHMENT FROM ACTING IN A MANNER  
5 THAT VIOLATES THIS PART 5.

6 **SECTION 2. Act subject to petition - effective date.** This act  
7 takes effect at 12:01 a.m. on the day following the expiration of the  
8 ninety-day period after final adjournment of the general assembly (August  
9 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a  
10 referendum petition is filed pursuant to section 1 (3) of article V of the  
11 state constitution against this act or an item, section, or part of this act  
12 within such period, then the act, item, section, or part will not take effect  
13 unless approved by the people at the general election to be held in  
14 November 2020 and, in such case, will take effect on the date of the  
15 official declaration of the vote thereon by the governor.