

118TH CONGRESS  
1ST SESSION

# H. R. 6654

To prohibit the sale and distribution of expanded polystyrene food service ware, expanded polystyrene loose fill, and expanded polystyrene coolers, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 2023

Mr. DOGGETT (for himself, Ms. BARRAGÁN, Mr. BLUMENAUER, Mr. CLEAVER, Mr. MCGOVERN, Mr. NADLER, Ms. NORTON, Mr. PAYNE, Ms. JAYAPAL, Mr. MULLIN, Mr. RASKIN, Ms. CASTOR of Florida, Ms. KAMLAGER-DOVE, Mr. COHEN, Mr. DESAULNIER, Mr. GRIJALVA, Mr. HUFFMAN, Mr. VARGAS, Ms. PINGREE, Mr. TAKANO, Ms. VELÁZQUEZ, Mr. KHANNA, Ms. TOKUDA, Mrs. NAPOLITANO, Ms. CLARKE of New York, Ms. SALINAS, Mrs. TRAHAN, Ms. LOFGREN, Mr. CONNOLLY, Mr. ROBERT GARCIA of California, Ms. PORTER, Mr. SCHIFF, Mr. LIEU, Ms. WILSON of Florida, Ms. BONAMICI, Mr. CASAR, Mr. KEATING, Mr. GOLDMAN of New York, Ms. LEE of California, Ms. SCHAKOWSKY, Mr. MFUME, Ms. SÁNCHEZ, Mrs. WATSON COLEMAN, Ms. BROWNLEY, Mr. QUIGLEY, Mr. THOMPSON of California, Ms. PRESSLEY, Mr. GARAMENDI, Mr. JOHNSON of Georgia, Mr. POCAN, Mr. CARTER of Louisiana, Ms. MCCOLLUM, Mr. ESPAILLAT, Mr. LEVIN, Ms. OCASIO-CORTEZ, Mr. CASTEN, Mr. IVEY, Mr. SARBANES, Mr. TRONE, Ms. JACOBS, Mr. BOWMAN, and Mr. GREEN of Texas) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To prohibit the sale and distribution of expanded polystyrene food service ware, expanded polystyrene loose fill, and expanded polystyrene coolers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Farewell to Foam Act  
3 of 2023”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) ADMINISTRATOR.—The term “Adminis-  
7 trator” means the Administrator of the Environ-  
8 mental Protection Agency.

9 (2) BIOLOGICAL PRODUCT.—The term “biologi-  
10 cal product” has the meaning given the term in sec-  
11 tion 351(i) of the Public Health Service Act (42  
12 U.S.C. 262(i)).

13 (3) COVERED POLYSTYRENE FOAM WARE.—The  
14 term “covered polystyrene foam ware” means—

15 (A) an expanded polystyrene cooler;

16 (B) an expanded polystyrene food service  
17 ware; and

18 (C) expanded polystyrene loose fill.

19 (4) DISTRIBUTOR.—The term “distributor”  
20 means any person that distributes covered poly-  
21 styrene foam ware that is sold or offered for sale in  
22 the United States.

23 (5) DRUG.—The term “drug” has the meaning  
24 given the term in section 201 of the Federal Food,  
25 Drug, and Cosmetic Act (21 U.S.C. 321).

1           (6) EXPANDED POLYSTYRENE.—The term “ex-  
2           panded polystyrene” means blown polystyrene and  
3           expanded or extruded foams that are thermoplastic  
4           petrochemical materials utilizing a styrene monomer  
5           and processed by any technique or combination of  
6           techniques, including fusion of polymer spheres (ex-  
7           pandable bead polystyrene), injection molding, foam  
8           molding, and extrusion-blow molding (extruded foam  
9           polystyrene).

10           (7) EXPANDED POLYSTYRENE COOLER.—

11           (A) IN GENERAL.—The term “expanded  
12           polystyrene cooler” means a portable container  
13           made entirely or partially of expanded poly-  
14           styrene that is designed or intended to be used  
15           for cold storage.

16           (B) EXCLUSION.—The term “expanded  
17           polystyrene cooler” excludes portable containers  
18           intended to be used for drugs, medical devices,  
19           or biological products.

20           (8) EXPANDED POLYSTYRENE FOOD SERVICE  
21           WARE.—

22           (A) IN GENERAL.—The term “expanded  
23           polystyrene food service ware” means a product  
24           made of expanded polystyrene that is—

1 (i) used for selling or providing food  
2 or beverages; and

3 (ii)(I) intended by the manufacturer  
4 to be used once for eating or drinking; or  
5 (II) generally recognized by the public  
6 as an item to be discarded after 1 use.

7 (B) INCLUSIONS.—The term “expanded  
8 polystyrene food service ware” includes any  
9 product described in subparagraph (A) con-  
10 sisting of a bowl, plate, hot or cold beverage  
11 cup, lid, clamshell, tray, carton for eggs or  
12 other food, or any other item used for serving  
13 or containing prepared food, including takeout  
14 food and leftovers from partially consumed  
15 meals prepared by food vendors.

16 (9) EXPANDED POLYSTYRENE LOOSE FILL.—  
17 The term “expanded polystyrene loose fill” means a  
18 void-filling packaging product made of expanded pol-  
19 styrene foam that is used as a packaging fill (com-  
20 monly referred to as “packing peanuts”).

21 (10) FOOD SERVICE PROVIDER.—The term  
22 “food service provider” means a person engaged in  
23 the business of selling or distributing prepared food  
24 or beverages for on-premise or off-premise consump-  
25 tion, including any—

1 (A) food service establishment, caterer,  
2 temporary food service establishment, mobile  
3 food service establishment, and pushcart;

4 (B) retail food store;

5 (C) delicatessen;

6 (D) grocery store;

7 (E) restaurant;

8 (F) cafeteria;

9 (G) coffee shop;

10 (H) hospital, adult care facility, and nurs-  
11 ing home; and

12 (I) elementary or secondary school, college,  
13 and university.

14 (11) MANUFACTURER.—The term “manufac-  
15 turer” means any person that manufactures or im-  
16 ports covered polystyrene foam ware that is sold, of-  
17 fered for sale, or distributed in the United States.

18 (12) MEDICAL DEVICE.—The term “medical de-  
19 vice” has the meaning given the term “device” in  
20 section 201 of the Federal Food, Drug, and Cos-  
21 metic Act (21 U.S.C. 321).

22 (13) PREPARED FOOD.—

23 (A) IN GENERAL.—The term “prepared  
24 food” means food or beverages that—

1 (i) are cooked, chopped, sliced, mixed,  
 2 brewed, frozen, heated, squeezed, com-  
 3 bined, or otherwise prepared on the prem-  
 4 ises of a food service provider for imme-  
 5 diate consumption; and

6 (ii) require no further preparation to  
 7 be consumed.

8 (B) INCLUSION.—The term “prepared  
 9 food” includes ready-to-eat takeout foods and  
 10 beverages described in subparagraph (A).

11 (14) RETAILER.—The term “retailer” means  
 12 any person that sells, supplies, or offers to con-  
 13 sumers covered polystyrene foam ware.

14 **SEC. 3. BAN ON EXPANDED POLYSTYRENE FOOD SERVICE**  
 15 **WARE, LOOSE FILL, AND COOLERS.**

16 (a) EXPANDED POLYSTYRENE FOOD SERVICE  
 17 WARE.—Beginning on January 1, 2026, no food service  
 18 provider, manufacturer, distributor, or retailer shall sell,  
 19 offer for sale, or distribute expanded polystyrene food  
 20 service ware.

21 (b) EXPANDED POLYSTYRENE LOOSE FILL AND EX-  
 22 PANDED POLYSTYRENE COOLERS.—Beginning on Janu-  
 23 ary 1, 2026, no manufacturer, distributor, or retailer shall  
 24 sell, offer for sale, or distribute expanded polystyrene loose  
 25 fill or expanded polystyrene coolers.

1 **SEC. 4. ENFORCEMENT.**

2 (a) WRITTEN NOTIFICATION FOR FIRST VIOLA-  
3 TION.—If a food service provider, manufacturer, dis-  
4 tributor, or retailer violates section 3, the Administrator  
5 shall provide that food service provider, manufacturer, dis-  
6 tributor, or retailer with written notification regarding the  
7 violation.

8 (b) SUBSEQUENT VIOLATIONS.—

9 (1) IN GENERAL.—If a food service provider,  
10 manufacturer, distributor, or retailer, subsequent to  
11 receiving a written notification under subsection (a),  
12 violates section 3 again, the Administrator shall im-  
13 pose a civil penalty on the food service provider,  
14 manufacturer, distributor, or retailer in accordance  
15 with this subsection.

16 (2) AMOUNT OF PENALTY.—For each violation  
17 described in paragraph (1), the amount of the civil  
18 penalty under that paragraph shall be—

19 (A) in the case of the second violation,  
20 \$250;

21 (B) in the case of the third violation, \$500;  
22 and

23 (C) in the case of the fourth, and any sub-  
24 sequent, violation, \$1,000.

25 (3) LIMITATIONS.—

1           (A) FOOD SERVICE PROVIDERS; RETAIL-  
2           ERS.—In the case of a food service provider or  
3           retailer the annual revenue of which is less than  
4           \$1,000,000, a penalty shall not be imposed  
5           under this subsection more than once during  
6           any 7-day period.

7           (B) MANUFACTURER; DISTRIBUTORS.—In  
8           the case of a manufacturer or distributor the  
9           annual revenue of which is less than  
10          \$5,000,000, a penalty shall not be imposed  
11          under this subsection more than once during  
12          any 7-day period.

13          (c) STATE ENFORCEMENT.—The Administrator may  
14          permit a State to carry out enforcement under this section  
15          if the Administrator determines that the State meets such  
16          requirements as the Administrator may establish.

17          **SEC. 5. REGULATIONS.**

18          The Administrator may promulgate such regulations  
19          as the Administrator determines necessary to carry out  
20          this Act.

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