

HOUSE BILL NO. 477

INTRODUCED BY M. MARLER, M. YAKAWICH

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE USE OF STYROFOAM IN FOOD-RELATED BUSINESSES; PROVIDING EXEMPTIONS; REQUIRING FEES FOR EXEMPTION APPLICATIONS; PROVIDING RULEMAKING AUTHORITY; AUTHORIZING USE OF ACCOUNT; PROVIDING DEFINITIONS; AMENDING SECTION ~~75-4-110~~ 75-10-117, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, expanded polystyrene foam, commonly known as styrofoam, is a material that causes environmental harm and poses a threat to fish and wildlife; and

WHEREAS, styrofoam takes up space in landfills and contributes to the need for costly expansions borne by taxpayers; and

WHEREAS, styrofoam threatens the right of each Montanan to a clean and healthful environment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 4], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Department" means the department of environmental quality provided for in 2-15-3501.

(2) "Expanded polystyrene foam" means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials using styrene.

(3) "Food packager" means a person located in the state who places bakery products or other prepared food in packaging materials for the purpose of retail sale of those products.

(4) "Polystyrene foam container" means a container that is made of expanded polystyrene foam.

(5) (a) "Prepared food" means a food or a beverage that is prepared for immediate consumption on or off the premises of the establishment.

(b) The term does not include raw, uncooked meat, fish, or eggs.

(6) "Undue hardship" includes but is not limited to situations in which:

(a) there are no acceptable alternatives to packaging prepared food with polystyrene foam containers for reasons that are unique to an applicant; or

(b) complying with the prohibition in [section 2] would deprive a person of a legally protected right.

NEW SECTION. Section 2. Prohibition of use of expanded polystyrene foam. Except as provided in [section 3]:

(1) beginning January 1, ~~2028-2035~~ 2028, a restaurant or food establishment in the state may not serve food or beverages to be consumed in the restaurant or food establishment using polystyrene foam containers;

(2) beginning January 1, ~~2029-2036~~ 2029, a restaurant, food establishment, resort, or hotel in the state may not:

(a) serve or package prepared food in polystyrene foam containers; or

(b) provide polystyrene foam containers for use with food or beverages; and

(3) beginning January 1, ~~2030-2037~~ 2030, a food packager in the state may not package bakery products or other prepared food in a polystyrene foam container.

NEW SECTION. Section 3. Exemptions. A person may apply to the department for an exemption from the requirements of [section 2]. The department may grant an application for an exemption if the department finds there are no acceptable alternatives to the use of expanded polystyrene foam and:

(1) the requirements of [section 2] would cause undue hardship; or

(2) the applicant intends to use expanded polystyrene foam for purposes relating to:

(a) transportation;

(b) construction;

(c) health; or

(d) safety.

NEW SECTION. Section 4. Rulemaking authority -- fee. (1) The department may adopt rules to implement and enforce the provisions of [sections 1 through 4], INCLUDING THE AUTHORITY TO ISSUE FINES OR

PENALTIES PURSUANT TO 75-10-228.

(2) The department shall adopt in rule a reasonable fee that reflects the actual costs of processing applications for exemptions. Revenue from the fee must be deposited in the ~~environmental rehabilitation and response account established in 75-1-110~~ SOLID WASTE MANAGEMENT ACCOUNT ESTABLISHED IN 75-10-117.

Section 5. Section 75-1-110, MCA, is amended to read:

"75-1-110. Environmental rehabilitation and response account. (1) There is an environmental rehabilitation and response account in the state special revenue fund provided for in 17-2-102.

(2) — There must be deposited in the account:

(a) — fine and penalty money received pursuant to 75-10-1223, ~~[section 4], 82-4-311, and 82-4-424~~ and other funds or contributions designated for deposit to the account;

(b) — reimbursements received pursuant to 75-10-1403 ;

(c) — unclaimed or excess reclamation bond money received pursuant to 82-4-241, 82-4-311, and 82-4-424 ; and

(d) — interest earned on the account.

(3) — Money in the account is available to the department of environmental quality by appropriation and must be used to pay for:

(a) — reclamation and revegetation of land affected by mining activities, research pertaining to the reclamation and revegetation of land, and the rehabilitation of water affected by mining activities;

(b) — reclamation and revegetation of unreclaimed mine lands for which the department may not require reclamation by, or obtain costs of reclamation from, a legally responsible party;

(c) — remediation of sites containing hazardous wastes as defined in 75-10-403, hazardous or deleterious substances as defined in 75-10-701, or solid waste as defined in 75-10-203 ; or

(d) — response to an imminent threat of substantial harm to the environment, to public health, or to public safety for which no funding or insufficient funding is available pursuant to 75-1-1101 ; OR

~~(E) — ADMINISTERING REGULATIONS RELATED TO THE USE OF EXPANDED POLYSTYRENE FOAM PURSUANT TO [SECTIONS 1 THROUGH 4].~~

(4) — Any unspent or unencumbered money in the account at the end of a fiscal year must remain in

the account until spent or appropriated by the legislature."

SECTION 5. SECTION 75-10-117, MCA, IS AMENDED TO READ:

"75-10-117. Solid waste management account. (1) There is a solid waste management account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) all revenue from the solid waste management fees provided for in 75-10-115;

(b) all revenue from the fee provided for in [section 4];

(c) fines and penalties collected pursuant to [section 4]; and

(b)(d) money received by the department in the form of legislative appropriations, reimbursements, gifts, federal funds, or appropriations from any source that is intended to be used for the purposes of the account.

(3) The account may be used by the department only for the administration of 75-2-215, [sections 1 through 4], part 2 of this chapter, and this part."

NEW SECTION. Section 6. Codification instruction. [Sections 1 through 4] are intended to be codified as a new part in Title 75, chapter 10, and the provisions of Title 75, chapter 10, apply to [sections 1 through 4].

NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2025.

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