

Expanded Polystyrene (EPS) and Your Business

The 2019 Maryland General Assembly passed legislation – House Bill 109 (HB 109 or Chapter 579) – prohibiting businesses and institutions from selling certain expanded polystyrene (EPS) food service products in the state, effective July 1, 2020. Businesses and institutions are prohibited from providing EPS food service products, effective October 1, 2020.

What is expanded polystyrene, or “EPS?”

Expanded Polystyrene means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by a number of techniques, including fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion–blow molding (extruded foam polystyrene). Some examples include foam cups used for hot drinks, foam carryout food containers, and foam trays used by some schools.



What does Maryland law require?

Prohibition

The legislation prohibits any person, food service business, school or institution from selling or offering for sale in the state of Maryland food or beverages in an EPS food service product on or after July 1, 2020. This would include non-profit organizations, or any such entity that would serve food or beverage for fundraisers or any such similar use. The legislation does not prohibit any of the above from storing a food service product for later distribution outside the state.

Public Education and Outreach

HB 109 also requires the Maryland Department of the Environment (MDE) to conduct a public education and outreach campaign before and during the implementation of the legislation. This public education and outreach campaign shall include:

- Contact with food service businesses, in consultation with relevant units of county government and relevant trade organizations;
- Contact with schools, in consultation with the Maryland State Department of Education;
- Distribution of information through state internet and web–based resources; and
- News releases and news events.

MDE has contacted hundreds of stakeholders, has developed a Frequently Asked Questions ([FAQ](#)) handout, and created an EPS Food Service Products Ban [webpage](#). MDE is also required to conduct a public education and outreach anti-littering campaign.

Waiver

A waiver is available from MDE for a period of up to 1 year if MDE determines that achieving compliance under this law would present an undue hardship or a practical difficulty not generally applicable to other food service businesses or schools in similar circumstances.



Enforcement

In Carroll County, the [Carroll County Health Department](#) will enforce this law. The Health Department may impose a penalty not exceeding \$250 on a person or food service business that violates this law. A penalty may not be imposed unless (1) the Health Department first issues a written notice of violation to the person or the food service business, and (2) the violation is not corrected within three months of receipt of the written notice. The Health Department shall notify MDE of any violation.

Terms Related to EPS

It is important for businesses, institutions, and the general public to understand several key, related terms as defined in HB 109 in order to comply with the law. These terms are specific to Maryland and the legislation.

Expanded Polystyrene Food Service Product means a product made of EPS that is (1) used for selling or providing food or beverages AND (2) intended by the manufacturer to be used once for eating or drinking OR generally recognized by the public as an item to be discarded after one use. An EPS food service product includes:

- food containers;
- plates;
- hot and cold beverage cups;
- trays; and
- cartons for eggs or other food.

EPS food service products, for purposes of this ban, do not include:

- food or beverages that have been packaged in EPS containers before receipt by a food service business;
- a product made of EPS that is used to package raw, uncooked, or butchered meat, fish, poultry, or seafood; or
- non-foam polystyrene food service products.

While the law prohibits certain EPS food service products, it does not mandate a particular alternative product.

Food Service Business includes a business or institutional cafeteria, including a cafeteria operated by or on behalf of the state or a local government. (This includes non-profit organizations such as churches and volunteer fire departments that serve food at events.)

A **School** includes a public elementary or secondary school, a nonpublic elementary or secondary school, and an institution of higher education, as defined in §10-101(H) of the Education Article.

A **Person** includes any such organization or entity which intends to serve food or beverage to the general public for their consumption. This would include non-profits and any such organization offering food or beverage to the public for any such reason (fundraisers, etc.).

A **Unit of County Government** includes a local health department or a local environmental department. In Carroll County, the Health Department will enforce this law. 



Alternatives Available

There are many alternatives available. Where possible, you can replace single use food service products with reusable ones. Businesses may also use containers composed of compostable materials, paper, plant material (sugarcane, rice, bamboo), aluminum, recyclable plastics (1-5^{♻️}), and glass.

Montgomery County has published a **List of Recyclable and Compostable Alternatives for Expanded Polystyrene Food Service Ware** that contains information about vendors and alternatives to EPS products, found on their EPS page at <https://www.montgomerycountymd.gov/sws/expanded-polystyrene/> 

EPS Report by EAC

For more information and background on EPS, check out the report prepared for the Carroll County Board of Commissioners by the Carroll County Environmental Advisory Council (EAC) at www.carrollcountymd.gov/media/5783/eps-report-2018-sep-19-final-w-appen.pdf. 

Who Can Answer Questions?

Visit MDE's webpage, "Expanded Polystyrene (EPS) Food Service Products Ban," at:

<https://mde.state.md.us/programs/LAND/RecyclingandOperationsprogram/Pages/Expanded-Polystyrene-Food-Service-Products-Ban.aspx>

To talk to someone at MDE, contact **John Sullivan**, Resource Management Program, Maryland Department of the Environment, by mail at 1800 Washington Blvd, Suite 610 Baltimore, MD 21230-1719; by email at john.sullivan1@maryland.gov; or by phone at 410-537-3314.

Carroll County Health Department will oversee local enforcement regarding the EPS ban. For local information, contact the **Environmental Health Bureau** of the Carroll County Health Department by email at carrollcounty.environmental@maryland.gov or by phone at 410-876-1884. 

