

February 6, 2017



Good afternoon Senator Saviello, Representative Tucker, and members of the Environment and Natural Resources Committee: my name is Melissa Gates. I am a resident of Cushing and I am here today testifying on behalf of the Surfrider Foundation Maine Chapter and its thousands of supporters, members and volunteers in support with specific amendments to strengthen LD103 to prohibit the use of certain disposable food service containers.

The amount of plastic debris in the ocean is truly staggering. A recent study published by the international journal *Science* estimates that *17 billion pounds* of plastic marine debris enters the ocean annually at the hands of only 192 countries with coastal access.<sup>1</sup> Abigail Barrows, the microplastics principal investigator for Adventure Scientists reported that a "randomly taken 1 liter of surface water sample from Maine marine or freshwater environments average 3 pieces of microplastics."<sup>2</sup> She notes what **we know** and science categorically backs-up: source reduction for this pollution is key in addressing pollution in our waters, in particular freshwater.

Because it is lightweight and floats, **we know** that expanded polystyrene (EPS) waste is a huge environmental detriment, as it is easily swept from streets, through storm drains, and into the waterways.

**We know** that polystyrene degrades water quality and injures, kills and contaminates sea life; often mistaken for food, plastics that are ingested cause significant health detriments to marine creatures, often leading to death.<sup>3</sup> For humans who eat sea life, significant health risks are imposed from plastic particulates inherent in those animals that are then subsequently ingested.

**We know** also that polystyrene food wares negatively impact public health, as styrene is a toxic substance labeled by the US Department of Health as reasonably anticipated to be a human carcinogen.<sup>4</sup> It is known to leach from food containers into food and beverages when heated, or in contact with alcohol, fatty or acidic foods. In fact, styrene residues are found in 100% of all samples of human fat tissue from exposure through food and packaging.<sup>5</sup>

**We also know** that plastic debris litters our environment, beaches and waters, not only wreaking havoc on the environment but also reducing its appeal to residents and tourists -- and requiring continual, costly cleanup. Recreation and tourism is the single largest contributing sector to Maine's ocean economy;<sup>6</sup> it is vital for the health of our environment, our quality of

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<sup>1</sup> Jenna R. Jambeck, Roland Geyer, Chris Wilcox, Theodore R. Siegler, Miriam Perryman, Anthony Andrady, Ramani Narayan, and Kara Lavender Law, "Plastic Waste Inputs from Land Into Water." *Science* 13 Feb. 2015: 768-771.

<sup>2</sup> Report to be published in 2017; for more information, email: [abby@adventurescientists.org](mailto:abby@adventurescientists.org)

<sup>3</sup> J.G.B. Derraik, "The pollution of the marine environment by plastic debris: a review" *Marine Pollution Bulletin* 44 (2002)

<sup>4</sup> Burwell, Sylvia M., U.S. Department of Health and Human Services Secretary "13th Report on Carcinogens." 13 Oct. 2014, available at: <http://ntp.niehs.nih.gov/ntp/roc/content/profiles/styrene.pdf>

<sup>5</sup> The EPA National Human Adipose Tissue Survey for 1986 identified styrene residues in 100% of all samples of human fat tissue taken in 1982 in the US. A 1988 survey published by the Foundation for Advancements in Science and Education also found styrene in human fatty tissue with a frequency of 100%

<sup>6</sup> <http://www.oceanomics.org/market/ocean/oceanecon.asp>

life and our economy that we take action now to mitigate this needless yet pervasive, highly toxic material in our State.

**We also know** that while there are no EPS manufacturers in Maine, we are fortunate to have a maker of fiber-based food service wares, Huhtamaki<sup>7</sup> in Waterville, which provides economical alternatives to polystyrene that are currently used in hospitals, schools and other Maine institutions and businesses.

**We know** that a common and absolutely legitimate concern of legislators when considering a ban on cheap, disposable products is the fiscal impact to potentially affected business owners. According to an economic analysis conducted by the city of San Jose, take-out containers used by full service restaurants represent only about 0.3% of total sales revenues.<sup>8</sup> For take-out restaurants, to-go containers represent a mere 1.3% of total sales revenues. These facts demonstrate that the cost differential between polystyrene containers and the eco-friendly alternative made right here in Maine would not be a significant determining factor of financial impact for our food service establishments. Former Portland City Councilor, Ed Suslovic, and multiple food service establishments in Portland and Freeport where bans on this toxic food ware have been in effect for some time, can further attest to the fact that banning polystyrene has not bankrupted them nor been causative of negative financial stress.

**We know** that EPS food containers are not recycled in Maine, and regardless, that very often the used food containers cannot be recycled, at all, anywhere, because they are too tainted with food waste to be processed.

**We know** that polystyrene needs to be banned to protect human health and the environment.

In addition to pleading with you to recognize this as the nonpartisan issue it is and urging your support, Surfrider requests that you amend the definition presented in Section 2B of this bill. Because what is *recyclable* and what is *recycled* are not in alignment with what we know about wasted styrene food products, which are theoretically capable of being recycled but are not, in fact, recycled in Maine, and because the “comparable cost” specification articulated in the bill does not take into account total costs, in addition to the product cost itself, we ask that you amend this subsection so it only excludes compostable products from the prohibition. I have provided in the testimony handed to you today a draft of this bill with this amendment, as well as a suggested modification to enable food service establishments to ask the Department for a six-month waiver of compliance to use-up their current inventory of polystyrene products prior to complying with the law.

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<sup>7</sup> <http://www2.us.huhtamaki.com>

<sup>8</sup> <http://www.sanjoseca.gov/Archive/ViewFile/Item/2025>



The Surfrider Foundation strongly urges this committee to do what is right for Maine people – for our health, for our visitors, for the ocean, waves & beaches and for the environment – by adopting the amendments proposed herein and passing this bill out of committee with an Ought To Pass As Amended vote.

Thank you for your consideration.

Sincerely,

Melissa Gates  
Northeast Regional Manager  
Surfrider Foundation

**EXHIBIT A. LD103 with Suggested Amendments**

**LD103 An Act To Prohibit the Use of Certain Disposable Food Service Containers**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. **38 MRSA §1652-A** is enacted to read:

§ 1652-A. Disposable food service containers

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Compostable," with regard to a material, means that the material will undergo degradation by biological processes during composting to yield carbon dioxide, water, inorganic compounds and biomass at a rate consistent with other materials that undergo degradation by biological processes and leave no visible, distinguishable or toxic residue, including no adverse impact on the ability of compost to support plant growth once the compost is placed in soil.

B. "Disposable food service container" means a container, bowl, plate, tray, carton, cup, lid or other item designed for one-time use for prepared foods. "Disposable food service container" includes service ware for take-out foods and leftovers from partially consumed meals prepared by food vendors, but does not include items composed entirely of aluminum, recyclable service ware or polystyrene foam coolers and ice chests that are intended for reuse.

C. "Polystyrene foam" means blown polystyrene and expanded foams using a styrene monomer.

D. "Recyclable," with regard to a material, means that a material that would otherwise be disposed of or processed as waste can be recovered, separated, collected and reprocessed for the purpose of using the reprocessed material in the manufacture of a new product.

**2. Prohibition.** Beginning January 1, 2018, a person may not sell or distribute in the State, at retail or wholesale, a disposable food service container:

A. That is composed in whole or in part of polystyrene foam; or

B. That is not compostable.

**3. Temporary Waiver.** Establishments may apply to the Department in writing for a temporary compliance waiver of six months in order to use current inventory of products hereby prohibited beginning January 1, 2018.

**4. Rules.** The department shall adopt rules to implement the provisions of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

#### SUMMARY

The purpose of this bill is to protect the environment and wildlife of the State and to reduce the increasing costs of litter collection and solid waste disposal by prohibiting the sale or distribution of disposable polystyrene food service containers, which constitute a sizable portion of nondegradable litter and solid waste in the State and which fragment into smaller, nondegradable pieces that may harm marine life and other wildlife through ingestion.

Beginning January 1, 2018, this bill prohibits the sale or distribution, at retail or wholesale, in the State of disposable food service containers composed in whole or in part of polystyrene foam, as well as disposable food service containers that are not compostable. This bill requires the Department of Environmental Protection to adopt rules to implement these statutory provisions. This bill provides a temporary compliance waiver mechanism for establishments with inventory to dispense before complying with the law.

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