

EXPANDED POLYSTYRENE FOAM CONTAINER AND LOOSE FILL PACKAGING BAN REQUIREMENTS



EFFECTIVE JANUARY 1, 2022:

Covered food service providers and stores (retail or wholesale) will no longer be allowed to sell, offer for sale, or distribute disposable expanded polystyrene foam food service containers in New York State. In addition, no manufacturer or store will be allowed to sell, offer for sale, or distribute polystyrene loose fill packaging (commonly referred to as packing peanuts) in the state.

AFFECTED BUSINESSES AND ORGANIZATIONS

COVERED FOOD SERVICE PROVIDERS: Any person engaged in the business of selling or distributing prepared food or beverages for on-premises or off-premises consumption, including but not limited to:

- Restaurants
- Grocery stores
- Delis
- Coffee shops
- Caterers
- Food trucks & street vendors
- Hospitals
- Schools
- Adult care facilities/ nursing homes
- Cafeterias
- Hotels, motels, & inns
- Community meal programs
- Sporting venues
- Amusement parks
- Summer camps
- Correctional facilities
- Faith-based organizations

STORES: Retail and wholesale establishments, including container and packaging distributors, that sell or distribute single-use food service containers, polystyrene foam packing peanuts, or other polystyrene foam loose fill packaging in New York State.

MANUFACTURERS: Manufacturers who make and sell polystyrene foam packing peanuts or other polystyrene foam loose fill packaging.

BANNED ITEMS

- Any single-use, disposable expanded polystyrene foam food service containers used for prepared food and beverages, including but not limited to: bowls, cartons, clamshells, cups, lids, plates, and trays
- Packing peanuts or other void-filling, loose fill packaging products made of expanded polystyrene foam



EXEMPTIONS

THE STATE LAW DOES NOT APPLY TO:

- Containers used for raw meat, pork, seafood, poultry, or fish sold for the purpose of cooking or preparing off-premises by the customer;
- Prepackaged food filled or sealed prior to receipt at a covered food service provider;
- Hard plastic food service containers marked with a number 6 (Polystyrene–PS) that are not foam; and
- A city with a population of 1 million or more that has a local expanded polystyrene ban in place, including New York City. (Other local laws are preempted by state law unless certain conditions are met.) See DEC's website for more details.

FINANCIAL HARDSHIP WAIVER ELIGIBILITY

- Any facility operated by a not-for-profit corporation, federal, state, or local government agency that provides food/meals to food-insecure individuals may apply for a renewable 12-month financial hardship waiver.
- Covered food service providers that have an annual gross income under \$500,000 per location, do not operate 10 or more locations in New York, and are not franchises may apply for a renewable 12-month financial hardship waiver.

ALTERNATIVES

Any container or packaging that does not contain expanded polystyrene foam, such as aluminum, rigid plastics, paper, glass, biobased, and compostable items may be used as an alternative. New York encourages the use of reusable, recyclable, compostable, and recycled-content containers and packaging where possible. Check DEC's website for resources: <https://on.ny.gov/FoamFreeNY>.

For more information, visit <https://on.ny.gov/FoamFreeNY>