

COUNCIL OF THE COUNTY OF MAUI

CLIMATE ACTION, RESILIENCE, AND ENVIRONMENT COMMITTEE

July 23, 2021

**Committee
Report No.** _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Climate Action, Resilience, and Environment Committee, having met on June 30, 2021, makes reference to County Communication 18-430, from Councilmember Elle Cochran, transmitting a proposed bill to regulate and limit the use and sale of plastic disposable foodware.

Your Committees notes the proposed bill, as amended, was enacted by Ordinance 5084 (2020).

Your Committee further notes that the Council's Environmental, Agricultural, and Cultural Preservation Committee (2019-2021 Council term) met on this matter on May 14, 2019, February 4, 2020, February 18, 2020, and November 17, 2020.

By correspondence dated June 21, 2021, the Chair of your Committee transmitted to the Department of the Corporation Counsel a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.26, MAUI COUNTY CODE, RESTRICTING THE USE AND SALE OF FOAM COOLERS."

The purpose of the proposed bill is to promote public health, reduce litter, and limit harmful materials from entering the environment by amending "plastic disposable foodware" in Chapter 20.26, Maui County Code, to include "foam coolers," which includes polystyrene-based foam coolers and ice chests.

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Under Chapter 20.26, the selling, use, providing, and offering of plastic disposable foodware will be generally prohibited as of January 1, 2022.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed bill, approved as to form and legality, incorporating nonsubstantive revisions.

By correspondence dated June 30, 2021, the Department of Environmental Management provided a link to the “Plastic Free Maui County” website, MauiCounty.gov/PlasticFree, which is being used to promote compliance with Chapter 20.26.

Representatives from the Department expressed support for the revised proposed bill.

On the First Deputy Corporation Counsel’s suggestion, your Committee further revised the proposed bill by establishing an effective of January 1, 2022.

Your Committee notes the revised proposed bill helps fulfill the General Plan’s directive “to reduce pollution and litter.” Your Committee further notes that the revised proposed bill is an appropriate extension of Chapter 20.26’s regulation of plastic disposable foodware. Your Committee’s research indicates foam coolers bring environmental harm similar to the forms of plastic disposable foodware that are already restricted in Chapter 20.26.

Your Committee voted 7-0 to recommend passage of the revised proposed bill, as further revised, on first reading and filing of the communication. Committee Chair King, Vice-Chair Sinenci, and members Johnson, Lee, Molina, Paltin, and Sugimura voted “aye.”

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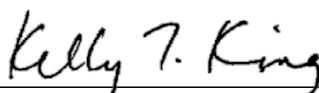
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Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's revisions and nonsubstantive revisions.

Your Climate Action, Resilience, and Environment Committee RECOMMENDS the following:

1. That Bill _____ (2021), attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.26, MAUI COUNTY CODE, RESTRICTING THE USE AND SALE OF FOAM COOLERS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 18-430 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



KELLY TAKAYA KING, Chair

ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.26, MAUI COUNTY
CODE, RESTRICTING THE USE AND SALE OF FOAM COOLERS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Because of its ability to break down into small and microscopic fragments that persist for decades, polystyrene foam coolers and ice chests have significant negative impacts on the environment and contribute to the potential death of marine animals and avian populations through ingestion.

By Ordinance 4457 (2017), the Council prohibited polystyrene foam food service containers, effective December 31, 2018. The Council finds that this prohibition has been effective in keeping such materials from entering the environment.

By Ordinance 5084 (2020), the Council prohibited plastic disposable foodware, effective January 1, 2022. The Council finds that this prohibition may also be effective in keeping such material from entering the environment and that further regulation is warranted.

The Council finds and declares that, to protect the County's unique environment and the health and welfare of its marine and avian life and prevent microplastics from entering the food chain, polystyrene foam coolers and ice chests must also be regulated.

SECTION 2. Section 20.26.020, Maui County Code, is amended to read

as follows:

“20.26.020 Definitions. Whenever used in this chapter, unless the context otherwise requires:

“ASTM Standard” means the American Society for Testing and Materials (ASTM) International Standard.

“Compostable” means materials that can undergo biological decomposition or become part of usable compost in a safe and timely manner, either in an appropriate composting program or facility, or in a home compost pile or device. To qualify as compostable, such food service containers must meet ASTM Standard D6400 for Compostable Plastics, as amended.

“Foam cooler” means polystyrene foam coolers and ice chests, where such foam is not fully encased in another impermeable material by its original manufacturer, in which any foods or beverages are placed or packaged or intended to be placed or packaged.

“Department” means the department of environmental management.

“Director” means the director of environmental management.

“Disposable” means something designed to be discarded after a single or limited number of uses and not designed or manufactured for long-term multiple re-use[.], including foam coolers.

“Foodware” means foam coolers, food service containers, and utensils.

“Food provider” means any person providing prepared food for consumption within the County, including any store, shop, sales outlet, restaurant, bar, pub, coffee shop, cafeteria, caterer, convenience store, liquor store, grocery store, supermarket, delicatessen, food truck, catering vehicle or cart, or roadside stand.

“Food service container” means all plates, trays, cups, bowls, cartons, and hinged or lidded containers (clamshells) on or in which any foods or beverages are placed or packaged or intended to be placed or packaged.

“Plastic” means any material made, in whole or in part, from petroleum or petrochemical compounds, including so-called biodegradable products, where any portion is not compostable. “Plastic” also means all forms of polystyrene, polyethylene, polypropylene, and polycarbonate, or petrochemical polymeric compounds and additives that can be shaped by flow.

“Polystyrene foam” means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by techniques including

fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene). Polystyrene foam does not include clear or solid polystyrene (oriented polystyrene).

“Prepackaged food” means food and beverages contained in plastic disposable foodware that has been filled and sealed entirely outside the County or in a manner intended to prevent the food or beverage from having any direct human contact, such as shelf-stable food and beverages; condiment packets, poi bags, musubi wraps, plastic film, chip bags, cookie and cracker wrappers, bread bags, meal kits, ice bags; beverage-related bottles or cartons; packaging for unprepared food; and packaging for wholesale distribution of prepared food, baked goods, and dairy products.

“Prepared food” means any food or beverage prepared for consumption using any cooking or food preparation technique, including chopping, slicing, mixing, brewing, freezing, or squeezing, or otherwise prepared for consumption. “Prepared food” includes restaurant-style food and beverages that are packaged after being ordered and ready for consumption without further preparation.

“Shelf-stable food” means prepared food that can be stored at room temperature and does not require refrigeration, freezing, or heating for food safety purposes.

“Utensils” means implements used in the consumption of food or drink, such as forks, knives, spoons, straws, coffee stirrers, cocktail picks, and chopsticks, excluding those contained within or attached to prepackaged food.”

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This ordinance takes effect on January 1, 2022.

APPROVED AS TO FORM AND LEGALITY:

A handwritten signature in black ink, appearing to be 'R. O. M.', written over a horizontal line.

Department of the Corporation Counsel
County of Maui

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