

1 HOUSE BILL NO. 477

2 INTRODUCED BY M. MARLER, M. YAKAWICH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE USE OF STYROFOAM IN FOOD-RELATED
5 BUSINESSES; PROVIDING EXEMPTIONS; REQUIRING FEES FOR EXEMPTION APPLICATIONS;
6 PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AMENDING SECTION 75-1-110, MCA;
7 AND PROVIDING AN EFFECTIVE DATE."

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

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

13 WHEREAS, styrofoam threatens the right of each Montanan to a clean and healthful environment.
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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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17 NEW SECTION. Section 1. Definitions. As used in [sections 1 through 4], unless the context clearly
18 indicates otherwise, the following definitions apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (a) transportation;

22 (b) construction;

23 (c) health; or

24 (d) safety.

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26 **NEW SECTION. Section 4. Rulemaking authority -- fee.** (1) The department may adopt rules to
27 implement and enforce the provisions of [sections 1 through 4].

28 (2) The department shall adopt in rule a reasonable fee that reflects the actual costs of processing

1 applications for exemptions. Revenue from the fee must be deposited in the environmental rehabilitation and
2 response account established in 75-1-110.

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

5 **"75-1-110. Environmental rehabilitation and response account.** (1) There is an environmental
6 rehabilitation and response account in the state special revenue fund provided for in 17-2-102.

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

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

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

11 (c) unclaimed or excess reclamation bond money received pursuant to 82-4-241, 82-4-311, and
12 82-4-424; and

13 (d) interest earned on the account.

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

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

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

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

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

24 (4) Any unspent or unencumbered money in the account at the end of a fiscal year must remain in
25 the account until spent or appropriated by the legislature."

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

1 through 4].

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

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