



2021 ASSEMBLY BILL 344

May 21, 2021 - Introduced by Representatives SHANKLAND, SHELTON, BALDEH, BROSTOFF, CABRERA, CONLEY, CONSIDINE, EMERSON, HEBL, HESSELBEIN, MOORE OMOKUNDE, L. MYERS, NEUBAUER, OHNSTAD, POPE, SUBECK and VINING, cosponsored by Senators LARSON, SMITH, CARPENTER and ROYS. Referred to Committee on Consumer Protection.

1 **AN ACT** *to create* 97.303 of the statutes; **relating to:** prohibiting food and
2 beverages from being served in foam polystyrene packaging and providing a
3 penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits an operator of a retail food business from serving food and beverages in foam polystyrene packaging. The prohibition under the bill does not apply to either of the following: 1) containers enclosing food or beverage that have been filled and sealed outside the state; or 2) containers used for packaging raw meat, poultry, fish, or seafood to be consumed off the premises where sold. Under the bill, the Department of Agriculture, Trade and Consumer Protection may grant a waiver from the prohibition lasting up to one year after the bill takes effect to a retail food business operator. DATCP may grant a waiver under the bill if doing so is necessary to avoid an undue hardship or practical difficulty for a retail food business operator that is not common among similarly situated retail food business operators.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 97.303 of the statutes is created to read:

ASSEMBLY BILL 344**SECTION 1****1 97.303 Serving food and beverages in foam polystyrene packaging. (1)**

2 DEFINITIONS. In this section:

3 (a) "Foam polystyrene packaging" means packaging made primarily from foam
4 polystyrene that is designed for serving or containing food or beverage.

5 (b) "Retail food business operator" means a person who operates a retail food
6 establishment, as defined in s. 97.30 (1) (c), or a vending machine operator.

7 **(2) PROHIBITION.** (a) Except as provided in par. (b), no retail food business
8 operator may serve food or beverages in foam polystyrene packaging.

9 (b) Paragraph (a) does not apply to any of the following:

10 1. A container enclosing food or beverage that has been filled and sealed outside
11 this state before receipt by a retail food business operator.

12 2. A container used for packaging raw meat, poultry, fish, or seafood to be
13 consumed off the premises where sold.

14 **(3) WAIVER.** Notwithstanding sub. (2) (a), the department may grant to a retail
15 food business operator a waiver authorizing activity prohibited under sub. (2) (a) if
16 the department determines that the waiver is necessary to avoid an undue hardship
17 or practical difficulty for the retail food business operator that is not common among
18 similarly situated retail food business operators. A waiver granted under this
19 subsection may not authorize activity prohibited under sub. (2) (a) that occurs on or
20 after the first day of the 13th month beginning after the effective date of this
21 subsection [LRB inserts date].

22 **(4) PENALTIES.** A person who violates sub. (2) (a) more than 90 days after
23 receiving written notice from the department that the person has violated sub. (2)
24 (a) shall forfeit not more than \$250, except that for each subsequent violation

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1 occurring more than 180 days after receiving the written notice the person shall
2 forfeit \$500.

3 **SECTION 2. Effective date.**

4 (1) This act takes effect on the first day of the 13th month beginning after
5 publication.

6 (END)