

House Bill 2365

Sponsored by Representative DEXTER (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits food vendor from using single-use plastic food service ware when selling, serving or dispensing prepared food to consumer. Prohibits food vendor from providing food service ware intended for single use to consumer unless specifically requested and food service ware meets certain requirements.

Requires specified restaurants and bed and breakfast facilities to be able to sanitize reusable food service ware on premises or at another location.

Requires mobile units be able to sanitize reusable food service ware on premises or at another location.

Prohibits sale or distribution of food service ware containing perfluoroalkyl or polyfluoroalkyl substances.

A BILL FOR AN ACT

1
2 Relating to food service ware.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in sections 1 to 3 of this 2021 Act:**

5 (1) **"Enforcement officer"** means an authorized representative of the State Department
6 of Agriculture who conducts inspections under ORS 616.286 or an authorized representative
7 of the Director of the Oregon Health Authority or of a local government who conducts in-
8 spections under ORS 624.010 to 624.121 or 624.310 to 624.430.

9 (2) **"Food service ware"** means:

10 (a) **Bowls, plates, cups, lids, straws, forks, spoons, knives, chopsticks, clamshells or other**
11 **containers or any other items used for serving, containing or consuming prepared food, in-**
12 **cluding takeout food and leftovers from partially consumed meals prepared by food vendors;**
13 **and**

14 (b) **Food service ware accessories.**

15 (3) **"Food service ware accessory"** means napkins, cup sleeves, food or beverage trays,
16 **condiment packets and saucers, stirrers, splash sticks, toothpicks or any other nonfood item**
17 **regularly provided alongside prepared food.**

18 (4) **"Food vendor"** means a business, organization or person that, as a principal or regu-
19 **lar activity, sells prepared food or offers prepared food for sale to the public, including, but**
20 **not limited to, a store, shop or other sales outlet, a restaurant, a grocery store, a super-**
21 **market, a delicatessen or a cart, truck or other vehicle from which the business, organiza-**
22 **tion or other person sells prepared food or offers prepared food for sale.**

23 (5) **"Prepared food"** means a food or a beverage that:

24 (a) **A food vendor prepares on the food vendor's premises or that another person pre-**
25 **pares and provides to the food vendor for sale to the public; and**

26 (b) **A person may consume immediately or without the need for further or additional**
27 **preparation.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (6) “Readily compostable” means the material can fully decompose in an at-home
2 compost system.

3 (7) “Readily recyclable” means:

4 (a) The material can be collected by curbside recycling service providers and sorted and
5 recycled by a majority of the material recovery facilities that operate in this state or cur-
6 rently accept materials from within this state; and

7 (b) There has been a consistent market for the material for the previous two years.

8 (8) “Reusable food service ware” means food service ware designed and manufactured to
9 be materially durable and maintain its shape and structure for a cycle of at least 1,000 uses
10 that includes washing and sanitizing by immersion for at least 30 seconds in water at no less
11 than 171 degrees Fahrenheit.

12 (9)(a) “Single-use plastic food service ware” means food service ware that contains plastic
13 derived from petroleum or a biologically based polymer, such as corn or another plant
14 source, and that is generally intended:

15 (A) For a single use; and

16 (B) For disposal after the single use.

17 (b) “Single-use plastic food service ware” does not include single-use plastic straws as
18 defined in ORS 616.892.

19 **SECTION 2.** (1) A food vendor may not use single-use plastic food service ware to sell,
20 serve or dispense prepared food to a consumer or otherwise provide single-use plastic food
21 service ware to a consumer.

22 (2) A food vendor may not provide to a consumer food service ware that is intended for
23 a single use unless the food service ware is:

24 (a) Made entirely from fiber-based materials;

25 (b) Readily compostable or readily recyclable; and

26 (c) Specifically requested by the consumer.

27 (3)(a) An enforcement officer may enforce subsection (1) or (2) of this section in the
28 course of conducting an inspection or in responding to a consumer complaint.

29 (b) A food vendor that violates subsection (1) or (2) of this section is subject to a notice
30 for the first and second violation of subsection (1) of this section and for the first and second
31 violation of subsection (2) of this section.

32 (c) After receiving the notice required under paragraph (b) of this subsection, a food
33 vendor is subject to a fine of \$25 for each day that the violation of subsection (1) of this
34 section continues and \$25 for each day that the violation of subsection (2) of this section
35 continues. An enforcement officer may not impose total fines of more than \$300 during a
36 calendar year for a food vendor’s violation of subsection (1) of this section or \$300 per cal-
37 endar year for a food vendor’s violation of subsection (2) of this section.

38 **SECTION 3.**(1) A food vendor must use reusable food service ware to sell, serve or dis-
39 pense prepared food to a consumer for consumption on the food vendor’s premises unless
40 exempted by a rule adopted by the Oregon Health Authority under section 5 or 7 of this 2021
41 Act.

42 (2)(a) An enforcement officer may enforce subsection (1) of this section in the course of
43 conducting an inspection or in responding to a consumer complaint.

44 (b) A food vendor that violates subsection (1) of this section is subject to a notice for the
45 first and second violation.

1 (c) After receiving the notice required under paragraph (b) of this subsection, a food
2 vendor is subject to a fine of \$25 for each day that the violation of subsection (1) of this
3 section continues. An enforcement officer may not impose total fines of more than \$300
4 during a calendar year for a food vendor's violation of subsection (1) of this section.

5 **SECTION 4.** Section 5 of this 2021 Act is added to and made a part of ORS 624.010 to
6 624.121.

7 **SECTION 5.** (1) As used in this section, "reusable food service ware" has the meaning
8 given that term in section 1 of this 2021 Act.

9 (2) A restaurant, bed and breakfast facility, intermittent temporary restaurant, seasonal
10 temporary restaurant or single-event temporary restaurant must be able to sanitize reusable
11 food service ware on the premises or at an off-site location.

12 (3) The Oregon Health Authority may adopt rules to exempt from the requirements of
13 subsection (2) of this section restaurants, bed and breakfast facilities, intermittent tempo-
14 rary restaurants, seasonal temporary restaurants or single-event temporary restaurants
15 that:

16 (a) Have 50 or fewer employees;

17 (b) Were licensed as a restaurant, bed and breakfast facility, intermittent temporary
18 restaurant, seasonal temporary restaurant and single-event temporary restaurant on or be-
19 fore the effective date of this 2021 Act; and

20 (c) Can demonstrate that it is not feasible to install appropriate sanitizing equipment or
21 implement appropriate sanitizing protocols on the premises and there are no off-site
22 sanitizing locations available.

23 **SECTION 6.** Section 7 of this 2021 Act is added to and made a part of ORS 624.310 to
24 624.430.

25 **SECTION 7.** (1) As used in this section, "reusable food service ware" has the meaning
26 given that term in section 1 of this 2021 Act.

27 (2) A mobile unit must be able to sanitize reusable food service ware in the mobile unit
28 or at another location.

29 (3) The Oregon Health Authority may adopt rules to exempt from the requirements of
30 subsection (2) of this section mobile units that:

31 (a) Have 50 or fewer employees;

32 (b) Were licensed as a mobile unit on or before the effective date of this 2021 Act; and

33 (c) Can demonstrate that it is not feasible to install appropriate sanitizing equipment or
34 implement appropriate sanitizing protocols in the mobile unit and there are no other
35 sanitizing locations available.

36 **SECTION 8.** (1) As used in this section:

37 (a) "Food service ware" has the meaning given that term in section 1 of this 2021 Act.

38 (b) "Perfluoroalkyl or polyfluoroalkyl substance" means a substance included in a class
39 of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

40 (2) A person may not sell, offer for sale, or distribute food service ware containing
41 perfluoroalkyl or polyfluoroalkyl substances in this state.

42 **SECTION 9.** (1) The Oregon Health Authority may impose a civil penalty on any person
43 for a violation of section 8 of this 2021 Act. Each day a violation occurs constitutes a sepa-
44 rate violation.

45 (2) A civil penalty imposed under this section may not exceed \$5,000 for the first violation

1 and \$10,000 for the second and each subsequent violation.

2 (3) Civil penalties described in this section shall be imposed in the manner provided in
3 ORS 183.745.

4 (4) All penalties recovered under this section shall be paid into the State Treasury and
5 credited to the General Fund and are available for general governmental expenses.

6 **SECTION 10.** (1) Section 2 of this 2021 Act becomes operative on June 1, 2022.

7 (2) Sections 3, 5 and 7 of this 2021 Act become operative on January 1, 2024.

8 (3) The Oregon Health Authority and a local public health authority as defined in ORS
9 431.003 may take any action before the operative date specified in subsection (1) of this sec-
10 tion that is necessary for the Oregon Health Authority or local public health authority to
11 exercise, on and after the operative date specified in subsection (1) of this section, all of the
12 duties, functions and powers conferred on the Oregon Health Authority or local public health
13 authority by section 2 of this 2021 Act.

14 (4) The Oregon Health Authority and a local public health authority as defined in ORS
15 431.003 may take any action before the operative date specified in subsection (2) of this sec-
16 tion that is necessary for the Oregon Health Authority or local public health authority to
17 exercise, on and after the operative date specified in subsection (2) of this section, all of the
18 duties, functions and powers conferred on the Oregon Health Authority or local public health
19 authority by sections 3, 5 and 7 of this 2021 Act.

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