Enrolled
Senate Bill 543

Sponsored by Senators SOLLMAN, DEMBROW, Representatives DEXTER, ANDERSEN; Senators CAMPOS, PATTERSON, TAYLOR, Representatives CHAICHI, GAMBA, GOMBERG, GRAYBER, HOLVEY, HUDSON, NERON, NOSSE, PHAM K, REYNOLDS (Presession filed.)

CHAPTER .....

AN ACT

Relating to prohibitions for certain products; creating new provisions; and amending ORS 459.995.

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

SECTION 1. As used in sections 1 to 4 of this 2023 Act:

(1) "Food vendor" means a business, organization or other person that sells prepared food or offers prepared food for sale to the public, including, but not limited to, a store, shop or other sales outlet, a restaurant, a delicatessen or a cart, truck or other vehicle from which the business, organization or other person sells prepared food or offers prepared food for sale.

(2) "Foodware container" includes bowls, plates, cups, lids, clamshells or other containers or any other items used for serving or containing prepared food, including takeout food and leftovers from partially consumed meals prepared by food vendors.

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

(4)(a) "Polystyrene foam container" means a cooler or foodware container that is:

(A) Made of a polystyrene plastic foam;

(B) Made for the purpose of serving, containing, preserving or consuming prepared food; and

(C) Ordinarily used once for a purpose described in subparagraph (B) of this paragraph before being discarded.

(b) "Polystyrene foam container" does not include:

(A) A cooler or other container that is made of a polystyrene foam, that is intended for more than one use and that is enclosed by a solid shell;

(B) A tray or container used solely to store, ship or otherwise transport an ingredient or food product that is not prepared food; or

(C) Polystyrene plastic material, other than polystyrene foam packaging peanuts, that is used solely for packing or protecting other items during storage, shipping or other transportation.

(5) "Polystyrene foam packaging peanuts" means loose fill material made of polystyrene foam used to protect items during shipping or other transportation.

(6)(a) "Prepared food" means food or a beverage that:

(A) A food vendor prepares on the food vendor's premises or that another person prepares and provides to the food vendor for sale to the public; and

(B) An individual may consume immediately or without the need for further or additional preparation.

(b) "Prepared food" does not include meat, fish, eggs or produce, if the meat, fish, eggs or produce are raw and have not been prepared for immediate consumption.

SECTION 2. A food vendor may not use a polystyrene foam container in selling, offering for sale, serving or dispensing prepared food to a consumer.

SECTION 3. A person may not sell, offer for sale or distribute in or into this state polystyrene foam containers or polystyrene foam packaging peanuts.

SECTION 4. A person may not sell, offer for sale, or distribute in or into this state a foodware container containing intentionally added perfluoroalkyl or polyfluoroalkyl substances.

SECTION 5. The Environmental Quality Commission may adopt rules necessary to implement sections 1 to 4 of this 2023 Act.

SECTION 6. ORS 459.995, as amended by section 15, chapter 102, Oregon Laws 2022, is amended to read:

459.995. (1) Except as provided in subsection (2) of this section, in addition to any other penalty provided by law:

(a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.705 to 459.790, 459A.005 to 459A.620, 459A.310 to 459A.335, 459A.860 to 459A.975 or 646A.080, or any rule or order of the Environmental Quality Commission pertaining to the disposal, collection, storage or reuse or recycling of solid wastes, as defined by ORS 459.005, or any rule or order pertaining to the disposal, storage or transportation of waste tires, as defined by ORS 459.705, or any rule or order pertaining to the sale of novelty items that contain encapsulated liquid mercury, incurs a civil penalty not to exceed $25,000 per day for each day of the violation.

(b) Any person who violates the provisions of ORS 459.420 to 459.426 incurs a civil penalty not to exceed $500 for each violation. Each battery that is disposed of improperly is a separate violation. Each day an establishment fails to post the notice required under ORS 459.426 is a separate violation.

(c) For each day a city, county or metropolitan service district fails to provide the opportunity to recycle as required under ORS 459A.005, the city, county or metropolitan service district incurs a civil penalty not to exceed $500 for each violation.

(d) Any person who violates the provisions of ORS 459.247 (1)(f) incurs a civil penalty not to exceed $500 for each violation. Each covered electronic device that is disposed of improperly is a separate violation.

(e) Any retailer that violates the provisions of ORS 459A.825 (1) or (2)(b) or section 3, chapter 102, Oregon Laws 2022, incurs a civil penalty not to exceed $100 per day for each day of the violation.

(f) Any producer or renovator that violates the provisions of ORS 459A.825 (1) or section 3, chapter 102, Oregon Laws 2022, incurs a civil penalty not to exceed $1,000 per day for each day of the violation.

(g) Any stewardship organization that violates the provisions of ORS 459A.825 (2)(a), 459A.827, 459A.830 to 459A.837 or 459A.842 or sections 1 to 14, chapter 102, Oregon Laws 2022, incurs a civil penalty not to exceed $1,000 per day for each day of the violation.

(h) Any food vendor that violates section 2 of this 2023 Act incurs a civil penalty not to exceed $100 for each day of the violation.

(i) Any person that violates section 3 or 4 of this 2023 Act incurs a civil penalty not to exceed $500 per day for each day of the violation.

(2) Any product manufacturer or package manufacturer who violates ORS 459A.650 to 459A.665 or any rule adopted under ORS 459A.650 to 459A.665 incurs a civil penalty not to exceed $1,000 per day for each day of the violation. A violation of ORS 459A.650 to 459A.665 is not subject to additional penalties under subsection (1) of this section.

(3) Any civil penalty authorized by subsection (1) or (2) of this section shall be imposed in the manner provided by ORS 468.135.

SECTION 7. Sections 1 to 4 of this 2023 Act and the amendments to ORS 459.995 by section 6 of this 2023 Act become operative on January 1, 2025.

Passed by Senate April 3, 2023

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Lori L. Brocker, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House April 26, 2023

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Dan Rayfield, Speaker of House

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

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Shemia Fagan, Secretary of State