

### Packaging legislation abounds!

It's hard to turn on the news or read a paper without hearing about another municipality or state enacting legislation aimed at regulating foodservice packaging — the single-use cups, containers, bags, wraps, cutlery, etc., used by restaurants and other establishments that offer prepared foods and beverages. It's not just legislators who are focused on packaging at restaurants, it's also customers, who in turn influence legislators. This makes it more important than ever for foodservice supply chain professionals to carefully consider all options while also paying attention to ever-changing regulations imposed by cities, county councils, and state houses.

Recent legislative efforts highlight the dynamics of foodservice packaging. This spring, the [Foodservice Packaging Institute](#) (FPI) tracked roughly 400 state-level bills across the country, covering topics from foam bans to “green chemistry” to extended producer responsibility. Overall, we've seen proposals expand from product-specific bans, to recyclable or compostable mandates and finally to bans on all single-use products.

While we see an increasing number of bill introductions each year, many do not pass. However, more bills are passing city or county councils, and more recently, state legislatures. At the state and local levels, there are currently:

- Over 150 carryout plastic bag bans and / or fees specific to restaurants.
- Over 240 foam polystyrene foodservice packaging bans.
- Nearly 60 bans on plastic straws and / or cutlery, or requirements that they be provided only upon request.
- Over 50 recyclable / compostable foodservice packaging mandates.
- One “marine-degradable” mandate.

There is a growing focus on regulation of chemicals sometimes used in foodservice packaging. Fluorinated chemicals (sometimes referred to as “PFAS”), which are used in some paper and molded-fiber foodservice packaging, are currently on the hot seat. This has been mainly driven by environmental NGOs who have used publicity tactics to drive new laws at state and local levels. Foodservice operators and others in the supply chain should be aware of these new laws, but also consider that the U.S. Food and Drug Administration does not have any indication that these substances are a human health concern.

FDA-reviewed and approved PFAS may continue to be used in food packaging, despite calls to the contrary by activist groups. In many instances, however, it's becoming easier for operators to move away from a product rather than to monitor and adapt to changing regulations. This can have a huge impact on the entire supply chain as operators' needs can change abruptly, leaving little time for proper planning. Operators can be forced to scramble to make decisions but, when possible, it's important to understand the options available. The Foodservice Packaging Institute's [Strategic Sourcing Guide](#) assists operators in working through all the important details to identify foodservice packaging needs.

From a broader standpoint, another threat to watch is increased calls for extended producer responsibility (“EPR”), meaning producers (typically brand owners) must pay fees to cover end of life management costs of their packaging. Yes, it’s important to make sure packaging can be recycled or composted, but there are more effective ways to achieve this goal. FPI supports voluntary producer responsibility (“VPR”) instead, and to see what the foodservice packaging industry is doing specifically, visit [www.RecycleFSP.org](http://www.RecycleFSP.org) and [www.RecycleFoam.org](http://www.RecycleFoam.org).

Of course, sometimes providing recyclable or compostable packaging is not enough for some locales. Take Berkeley, California, for example. Earlier this year, it passed a most restrictive ordinance that will impact all foodservice operations, adding to the challenges already mentioned:

- As of March 2019, “accessory” items like lids, straws, stirrers, cutlery, condiment cups, napkins, etc. may only be provided upon request or at self-serve stations; in addition, foodservice operators, except full-service restaurants, must provide at least one set of receptacles for composting, recycling and trash in the front-of-house.
- Beginning January 1, 2020, all foodservice packaging must be compostable, and operators must charge customers a 25-cent fee if given a single-use cup.
- Beginning July 1, 2020, all foodservice operators must provide only reusable food ware for customers eating in-store.

And before you scoff and think “oh, that’s just Berkeley,” consider that Berkeley was one of the first communities to pass a ban on foam foodservice packaging...and there are now hundreds of foam bans. What happens in Berkeley, does not stay in Berkeley.

Many operators are considering a switch to reusable packaging and wares in an effort to reduce waste. They should also carefully consider the additional resources related to reusable mugs, glasses, etc. — like water, chemicals, electricity, labor and space needed to store those items, plus replacement costs when items are broken or stolen (yes, that does happen rather frequently). It’s not a simple decision to switch from single-use packaging products to reusable, or vice-versa, so the Foodservice Packaging Institute created a [resource](#) to help operators walk through all the different considerations.

It’s important to remember the reason why single-use foodservice packaging was invented over 100 years ago, and why it is ubiquitous today — to protect public health. No one, particularly not a foodservice operator, wants the liability of foodborne-illness coming from a reusable item, whether provided by the operator or brought in by the customer. Continuing to use foodservice packaging provides operators with a sanitary option for serving prepared foods and beverages, especially at a time when trends like delivery and catering are so reliant on single-use packaging.



We believe we'll continue to see more legislation related to single-use foodservice packaging at the state and local levels. Consequently, the FPI continues to work to increase awareness and decrease government intervention. While perhaps well-intentioned, much of the legislation unnecessarily limits packaging choices and places unnecessary burdens on foodservice operators.

If you would like to stay up to date on these legislative challenges, consider joining the Foodservice Packaging Institute. We offer a free membership for all foodservice operators. More information is available by contacting us at [fpi@fpi.org](mailto:fpi@fpi.org).

How can you stay informed on the latest legislation?

### Get involved

- Participate in local and state restaurant associations, chambers of commerce, etc.
- Join the FPI for free.
- Help the FPI figure out how to tap into local and state organizations so the association can fight to keep all foodservice packaging in the marketplace.
- Stay up to date on proposals made in your local and state legislative bodies.

### Know the Facts

There are a lot of falsehoods being spread about foodservice packaging, leading to these proposed regulations and, frankly, fear among consumers. Help FPI stop the spread of bad information. Read [Myths vs. Facts: The Truth about Foodservice Packaging](#) and follow social media stars Fake Freddy and Truth Teddy on [Instagram](#) and [Facebook](#).



### Author



Lynn Dyer is president of the Foodservice Packaging Institute, the trade association for the North American foodservice packaging industry. At FPI, she advocates for the interests of the industry and champions its efforts to expand recycling and composting of foodservice packaging. Prior to joining FPI in 1998, Lynn worked with the European Food Service & Packaging Association (now Pack2Go Europe) in Brussels, Belgium. For more about FPI, visit [www.fpi.org](http://www.fpi.org) or email [fpi@fpi.org](mailto:fpi@fpi.org).