

Model Single-Use Food Serviceware Reduction Act.

Purpose and Use of this Model Law

Each year, the U.S. produces around 80 million tons of packaging waste. Much of that waste is food and beverage take-out and delivery items, like plastic spoons, forks, stirrers, and straws. Not only do these single-use items tend to go unused, but they also aren't recyclable. That means these small, unnecessary, and often unrequested foodware products wind up in landfills, incinerators, or littered throughout the environment.

This model legislation is designed to allow customers to order food and beverages without receiving unnecessary and unrequested single-use plastic foodware. Under the law, single-use foodware can only be given to customers if they request it. That means the days of getting unnecessary utensils, condiment packets, straws, stirrers, splash-sticks, and more, are gone. The law also prohibits restaurants from packaging single-use foodware together in a way that prohibits a customer from grabbing the specific item they want. What's more, the law requires third-party food delivery platforms like DoorDash, GrubHub, and UberEats to update their menus in a way that enables customers to select which single-use items they want, if any.

At Just Zero, we know that change can happen at any level, that's why this model legislation is designed to be introduced at any level of government. All you need to do is insert the name of the city or town, county, or state when you want to see the bill introduced. Also, don't forget to add the name of the agency or department that will be responsible for administering the law. To make things easy, we italicized the parts of the bill where you need to insert this information.

If you are introducing the bill at the county or state level, make sure you keep Section 8: Preemption, intact. This ensures that should the bill pass, local governments will still be able to pass stronger single-use product laws, like single-use plastic bans. If you are introducing the bill at the local level, Section 8 should be deleted.

Section 1: Definitions

- (a) "City/County/State" means the City of XXX/ County of XXX/ or State of XXX
- (b) "Consumer" means a person purchasing food or beverages.
- (c) "Food Service Provider" means any store, establishment, provider, government entity, non-profit vendor, or business, operating within the *[Insert Name of City/County/State]* that sells or provides food or beverages for human consumption to consumers directly or indirectly through a delivery or takeout service, regardless of whether such food is consumed on or off the premises. "Food service provider" includes, but is not limited to, restaurants, retail food establishments, caterers, cafeterias, stores, shops, retail sales outlets, grocery stores, delicatessens serving the public, mobile or temporary food providers, vehicles or carts, or roadside stands.
- (d) "Single-Use Food Serviceware" means all types of items provided by food service providers in relation to the consumption and enjoyment of food or beverages, including, but not limited to, forks, spoons, knives, napkins, straws, stirrers, cocktail sticks, splash sticks, toothpicks, wet-wipes, cup lids, cup sleeves, beverage trays, and unfilled cups, plates, and take-out containers that are designed for single-use.
- (e) "Single-Use Condiment" means relishes, spices, sauces, confections, or seasonings that require no additional preparation and that are usually used on a food item after preparation, including ketchup, mustard, mayonnaise, soy sauce, hot sauce, salsa, salt, pepper, sugar, and sugar substitutes or other similar items that are designed for single-use.
- (f) "Single-Use" means a product that is designed to be used once and then discarded, and not designed for repeated use and sanitizing.
- (g) "Third-Party Food Delivery Platform" means a business engaged in the service of online food ordering and/or delivery of food or beverages from a food service provider to a consumer.

Section 2: Single-Use Food Serviceware Upon Request

- (a) Only upon request by a customer, may a food service provider provide single-use food serviceware or single-use condiment.
- (b) Single-use food serviceware and single-use condiments provided by food service providers for use by consumers shall not be bundled or packaged in a manner that prohibits a consumer from taking only the type of single-use food serviceware or single-use condiment desired without also having to

take a different type of single-use food serviceware or single-use condiment.

- (c) Nothing in this section shall be construed to prohibit a food service provider from selling or providing food or beverages that are pre-packaged by the manufacturer in single-use food serviceware.

Section 3: Requirements for Third-Party Delivery Platforms

- (a) A third-party food delivery platform shall provide consumers with the option to request single-use food serviceware and single-use condiments from food service providers.
- (b) A third-party food delivery platform shall customize its menu with a list of available single-use food serviceware and single-use condiments, and only those single-use food serviceware and single-use condiments selected by the consumer shall be provided by the food service provider or the third-party food delivery platform. If a consumer does not select any single-use food serviceware or single-use condiments, no single-use food serviceware or single-use condiments shall be provided by the food service provider or the third-party delivery platform.

Section 4: Enforcement and Compliance

- (a) The *[Insert Name of City/County/State Environmental Agency or Public Health Agency Responsible for Compliance]* is authorized to promulgate rules and regulations for the implementation and enforcement of this act.
- (b) The *[Insert Name of City/County/State Environmental Agency or Public Health Agency Responsible for Compliance]* is authorized to take actions reasonable and necessary to enforce this article, including, but not limited to, receiving and responding to complaints, investigating violations, issuing fines, and entering the premise of any food service provider during business hours to monitor compliance.
- (c) A food service provider and third-party food delivery platform shall be subject to the following:
 - (1) A written notice for a first violation
 - (2) An administrative fine not to exceed \$50 for a second violation.
 - (3) An administrative fine of at least \$150 for each subsequent violation.
- (d) Each administrative fine shall be due and payable to the *[Insert Name of City/County/State]* within 30 calendar days from the date the written notice of violation is served. Failure to timely pay the fine will result in the assessment of a late fee. The *[Insert Name of City/County/State]* may collect any unpaid fine, including the late fee, by means of civil action, injunctive relief, and specific performance in accordance with applicable law.

- (e) A food service provider or third-party deliver platform who receives a written notice of violation pursuant to this article may request an administrative review of the accuracy of the violation determination by filing a signed, written notice of appeal with the [*Insert Name of City/County/State Environmental Agency or Public Health Agency Responsible for Compliance*], or his/her designee, no later than 30 days from the date the notice of violation was served. The appeal must include all facts supporting the appeal and any supporting documentation, including copies of all photos, statements, and other documents that the appellant wishes to be considered in connection with the appeal. The [*Insert Name of City/County/State Environmental Agency or Public Health Agency Responsible for Compliance*], or his/her designee, may sustain, rescind, or modify the notice of violation and/or administrative fine, as applicable

Section 5: Education and Outreach

- (a) the [*Insert Name of City/County/State Environmental Agency or Public Health Agency Responsible for Compliance*], is required to conduct education and outreach to consumers, food service providers, and third-party food delivery platforms regarding the requirements and purpose of this law.
- (b) The education and outreach shall, at a minimum, include:
- (1) Information regarding the environmental and public health harms associated with single-use foodware;
 - (2) The environmental, economic, and social benefits of reusable foodware;
 - (3) Information regarding the environmental and public health concerns associated with landfilling and incinerating waste;
 - (4) The requirements of this act; and
 - (5) How food service providers and third-party delivery platforms can comply with the requirements of this act and the penalties for non-compliance;
- (c) The education and outreach conducted by the [*Insert Name of City/County/State Environmental Agency or Public Health Agency Responsible for Compliance*] shall utilize multiple forms of media, including, but not limited to print and web-based media to produce information directly to consumers, food service providers, and third-party food delivery platforms, and shall be provided in multiple languages.

Section 6: Severability

- (a) If any provision of this article is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this article which can be implemented without

the invalid provisions, and to this end, the provisions of this article are declared to be severable. The *[Insert Name of City/County/State]* hereby declares that it would have adopted this article and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional, or otherwise unenforceable.

Section 7: Preemption (Only If Introduced at the County/State Level)

- (a) Nothing in this act shall limit the ability of any city or county within the jurisdiction of the *[Insert Name of State]* from passing more restricting laws, ordinances, or regulations, governing the use of single-use food serviceware or single-use condiments, so long as those laws, ordinances, or regulations do not violate the provisions of this act.

Section 8: Effective Date

- (a) The provisions of this act shall take effect one year after enactment.