

**CITY OF DANA POINT**  
**AGENDA REPORT**

<b>Reviewed By:</b>	
DH	X
CM	X
CA	X

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**DATE: FEBRUARY 21, 2012**

**TO: CITY MANAGER/CITY COUNCIL**

**FROM: BRAD FOWLER, DIRECTOR OF PUBLIC WORKS AND ENGINEERING SERVICES  
KYLE BUTTERWICK, DIRECTOR OF COMMUNITY DEVELOPMENT**

**SUBJECT: SECOND READING AND ADOPTION OF AN ORDINANCE ADDING A NEW CHAPTER 6.46 "EXPANDED POLYSTYRENE FOOD SERVICE WARE" TO TITLE 6 OF THE DANA POINT MUNICIPAL CODE PROHIBITING THE DISTRIBUTION OF EXPANDED POLYSTYRENE (STYROFOAM) FOOD SERVICE WARE AT LOCAL FOOD VENDORS, CITY FACILITIES, AND CITY-SPONSORED EVENTS**

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**RECOMMENDED ACTION:**

That the City Council adopt an ordinance (Action Document A) entitled:

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADDING A NEW CHAPTER 6.46 "EXPANDED PLOYSTYRENE FOOD SERVICE WARE" TO TITLE 6 OF THE DANA POINT MUNICIPAL CODE PROHIBITING THE DISTRIBUTION OF EXPANDED POLYSTYRENE (STYROFOAM) FOOD SERVICE WARE AT LOCAL FOOD VENDORS, CITY FACILITIES, AND CITY-SPONSORED EVENTS.**

**DISCUSSION:**

The City Council held the first reading of subject ordinance on February 7, 2012. This is the proposed second and final reading unless changes are made. The Ordinance effective date of adoption is 30 days following the second reading. However, the effective date of implementation shall be 6 months thereafter. New correspondence received after the agenda package was prepared for the City Council meeting on February 7, 2012 is attached as Supporting Document D. What follows is the information provided in the initial staff report without change.

**PREVIOUS BACKGROUND:**

As a coastal city, Dana Point has a strong interest in protecting the ocean, our local beaches, and the marine environment which all contribute to the unique quality of life enjoyed in Dana Point.

On April 1, 2008, the City's Environmental Policy (Green Policy) was adopted by the City Council as a commitment to protecting and preserving our coastal environment in order to sustain a high quality of life, to enhance economic development and maintain the City's legacy as the most beautiful, desirable and safest coastal community in which to live, work, visit, play or conduct business. The Green Policy helps ensure that the City of Dana Point will continue to exhibit leadership in governance and will be guided by the goals of reducing or eliminating negative coastal impacts in all aspects of City business.

On July 27, 2009, the City Council adopted Resolution # 09-07-27-08 implementing the voluntary reduction program for plastic bags and polystyrene (Styrofoam) within local restaurants, retailers, City facilities and City-sponsored events. This Resolution promotes the use of biodegradable, compostable or recyclable products as an effective waste management option to: 1) prolong the life of our local landfills, 2) maintain the integrity of the oceans and our local beaches and 3) promote utilization of biodegradable products that will break down and not become permanent blight on our City streets, parks and beaches or end up as long-lasting marine debris that last hundreds of years in the ocean and never fully break down. The intent of the voluntary program was to begin shifting away from single-use bags and polystyrene or Styrofoam (the term Styrofoam is a trademark of the Dow Chemical Company) at local restaurants towards the use of reusable carryout bags at the point of sale.

Since the implementation of the voluntary program, Staff has met with representatives of several organizations in the community to discuss the reduction of plastic bags and Styrofoam in Dana Point. These groups include the Harbor Merchants Association, OC Dana Point Harbor, Lantern Bay Plaza Merchants, Dana Point Chamber of Commerce, Earth/Ocean Society, Dana Point Historical Society, and ZeroTrash. The Harbor Merchants Association and OC Dana Point Harbor have taken the program a step further by taking steps towards the elimination of Styrofoam in all restaurants within the Harbor, as well as providing alternatives to single use plastic bags in retail locations. They are now conducting a survey on plastic and polystyrene use by Harbor merchants.

In addition, Staff has communicated directly with the majority of the restaurants in the community about the voluntary program, providing information for several vendors that offer alternatives to polystyrene and single-use plastic bags.

However, the overall results to date of the voluntary citywide reduction program for use of expanded polystyrene has not been successful to a materially, measureable amount. In response to the letter sent to businesses in August 2010 (Supporting Document C), no responses were received by the City.

The City Council actions referenced above reflect Dana Point's proactive approach to our coastal community stewardship by implementing policies that inform the community on the City's day to day business practices as well as help motivate residents and the business community into awareness and responsibility.

At its regularly scheduled meeting of September 26, 2011 the City Council directed Staff to: "Consult with Dana Point Destiny, begin the environmental analysis required by CEQA, and return with a draft ordinance addressing the use of plastic bags and Styrofoam no later than December 12, 2011."

Staff met with the Dana Point Destiny Ad Hoc Committee on October 12, 2011. Staff received input from the members for consideration in drafting the subject Ordinance. Issues discussed included implementation periods, cost recovery incentives, exclusions, hardships for small businesses, as well as potential benefits to the environment and community marketing.

The Ocean Water Quality Subcommittee reviewed tenets of the proposed ban at their regularly scheduled meeting of November 22, 2011 and expressed support for the proposed ban.

Letters were received from the public on the proposed Ordinance and are attached as Supporting Document D.

### **PREVIOUS DISCUSSION:**

The City is proposing to amend the Municipal Code to implement a ban on use of Expanded Polystyrene (EPS) food service ware.

Polystyrene is a petroleum-based plastic resin which, in its "foamed" or "expanded" state is frequently used for food packaging or containers.

EPS is not biodegradable, thus EPS litter remains indefinitely in the environment where it breaks up into small pieces that disperse widely, is very difficult to clean up and can be ingested by marine and wildlife that mistake EPS pieces for food. A study of beach debris at 43 sites along Orange County Coast by Dr. S. Moore found that EPS was the second most abundant form of beach debris. Similarly the City of Oxnard in 2005 cited EPS as the second most ubiquitous type of trash found in their trash characterization study. In nearby San Clemente in 2009, their Watershed Task Force's adopted beach volunteer program collected over 10,000 pieces of EPS. While EPS is technically "recyclable," there is, to date, no meaningful recycling of EPS food service containers due to high food contamination rates and a very weak market because of the cost to clean, handle and process the material.

According to the California Integrated Waste Management Board, Californians use 165,000 tons of polystyrene each year for packaging and food service purposes alone, with no meaningful recycling of food service polystyrene. Polystyrene is also a potential health concern. Styrene migrates from the containers into food and beverages when heated or in contact with fatty or acidic foods. Styrene residues are found in 100% of all samples of human fat tissue – every American is exposed through food packaging. According to the federal government, styrene is a carcinogen in lab animal testing, a probable human carcinogen and a neurotoxin. Polystyrene debris that makes its way to the ocean is also a known hazard to certain marine wildlife and birds.

The Surfrider Foundation, Orange County Chapter, has stated their support for an EPS prohibition because single use polystyrene adds significantly to trash in our waterways; contributes to significant taxpayer spending for litter cleanup; can cause severe human health effects; and because there are safer and more sustainable alternatives.

Our neighboring beach cities, San Clemente and Laguna Beach, prohibit the use of disposable EPS service ware (e. g. containers, bowls, plates, trays and cups) at all restaurants and retail food vendors (e. g. grocery store, delicatessen, etc.) and City facilities and events. Allowable food service wear includes plastics, aluminum, paper and compostable products. Laguna Beach also bans Styrofoam ice chests.

### Exemptions and Exclusions

The proposed Ordinance applies to packaging that is controlled by, or at the discretion of the business. It does not apply to foods that are packaged outside the city and later provided within the city. The Ordinance also does not apply to Styrofoam packaging used for uncooked meat, fish, poultry or eggs provided for consumption without further preparation.

The possibility of a small business exemption to this ban was also considered, but is excluded from the proposed Ordinance. The reason for this is that likely many of the Styrofoam containers that end up on our beaches and in our ocean are from our smaller takeout and drive-thru restaurants. The proposed Ordinance does allow an exemption for undue hardship and situations where there are no acceptable alternatives to Styrofoam for reasons which are unique to the vendor or situations where compliance with requirements of the ordinance would deprive a person of a legally protected right.

The San Clemente Ordinance adoption report points out that there are environmentally preferable alternatives to EPS with comparable performance and there are several food establishments within our own city that have already voluntarily switched to alternative products. It is acknowledged that alternatives are somewhat more expensive than the lowest priced polystyrene products. A cost comparison study provided by Clean Water Action California in support of the SB 568 State Ban on expanded polystyrene foam, takeout food packaging shows cups costing 12% to 18% more, bowls 8% to 80% more, containers costing 68% to 74% more, and plates costing 28% to 33% less. The San Clemente report estimates that paper or plastic alternatives cost about twice as much as Styrofoam products. One local proprietor, Jim Miller, reports that he voluntarily switched from polystyrene to paper and plastic alternatives at his two Harbor-area businesses, at a combined cost of approximately \$10,000 annually for both restaurants.

In addition to Laguna Beach and San Clemente, bans have been enacted in 47 cities in California including Burlingame, Calabasas, Malibu, Newport Beach, and Santa Monica, to name a few.

### Implementation Timeline and Outreach

Many of the cities referenced above allowed a six month grace period, after Ordinance adoption, before their plastic bag ban became effective in their communities. It is

proposed that the effective date of this proposed Ordinance shall also be six months after its passage and adoption. This will give time for establishing an outreach and education program to inform the business community of the reasons for the Ordinance and what is allowed.

Following adoption and the grace period, infractions of the Ordinance as proposed would consist first of issuance of a written warning, and a subsequent offense(s) shall be punishable by a fine of not more of them \$100 for the first conviction and not more than \$250 for the second and each subsequent conviction.

The City Council introduced and held the first reading of the attached Ordinance adding a new Chapter 6.46 prohibiting the distribution of expanded polystyrene (Styrofoam) food service ware at local food vendors, City facilities and City-sponsored events.

**CONCLUSION:**

It is recommended that the City Council adopt the attached Ordinance.

**FISCAL IMPACT:**

Ongoing Staff costs for public outreach/code enforcement to businesses and residents about the Styrofoam ban would be expected to some degree but would taper off over time once the program is established and ongoing.

**STRATEGIC PLAN IMPLEMENTATION:**

The project is in compliance with the Strategic Planning Initiative to restore and maintain the integrity of our ocean waters and beaches and to maintain, modernize and beautify the City’s infrastructure and neighborhoods and to achieve total excellence in municipal services and City administration/planning with excellent customer service and cost-effectiveness.

**ALTERNATIVE ACTIONS:**

As the City Council may suggest.

**ACTION DOCUMENTS**

**PAGE NO.**

A. [Ordinance](#) .....7

**SUPPORTING DOCUMENTS:**

**PAGE NO.**

B. [Voluntary Plastic Bag and Styrofoam Reduction Program letter to Dana Point businesses dated August 2010](#)..... 14

C. [Letters from American Chemistry Council, Pacific Marine Mammal Center and California Restaurant Association](#)..... 15

D. [New correspondence received on Styrofoam agenda item since the February 7<sup>th</sup> council meeting package was prepared](#).....31

**ACTION DOCUMENT A:** Ordinance**ORDINANCE NO. \_\_\_\_\_****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADDING A NEW CHAPTER 6.46 "EXPANDED POLYSTYRENE FOOD SERVICE WARE" TO TITLE 6 OF THE DANA POINT MUNICIPAL CODE PROHIBITING THE DISTRIBUTION OF EXPANDED POLYSTYRENE (STYROFOAM) FOOD SERVICE WARE AT LOCAL FOOD VENDORS, CITY FACILITIES, AND CITY-SPONSORED EVENTS**

WHEREAS, the City of Dana Point has a duty to protect the natural environment, the economy, and the health of its citizens; and

WHEREAS, there are currently approximately 108 individual restaurants and food service businesses in the City; and

WHEREAS, expandable polystyrene (EPS), a petroleum based product that is frequently used for food services purposes, enters various water bodies from both direct and indirect sources (such as storm drains), and negatively impacts the overall quality of ocean waters and adjacent beach areas; and

WHEREAS, the litter problem resulting from expandable polystyrene (EPS) products is becoming increasingly difficult to manage and has costly negative implications for tourism, wildlife, aesthetics, and most recently, public storm drain systems; and

WHEREAS, numerous studies have documented the prevalence of EPS debris in the environment, including storm drains, ocean waters and on beaches; and

WHEREAS, a deterioration in the quality of the City's ocean waters and beaches threatens the public health, safety and welfare and negatively affects tourism and the local economy which depends on tourist trade; and

WHEREAS, EPS debris poses a risk to the fragile ecological balance because wildlife often confuse EPS debris for a source of food, and the ingestion of EPS can result in reduced appetite and nutrient absorption and death by starvation; and

WHEREAS, EPS products contribute to urban blight as litter, because, even when they have been disposed of properly, EPS products easily break down into smaller pieces, which are so light that they float in water and get carried by the wind; and

WHEREAS, EPS food service products, by their nature, have a useful life that can be measured in minutes or hours, yet these products take several decades to hundreds of years to biodegrade; and

WHEREAS, the 1999-2000 Orange County Grand Jury report titled "The Rainy Season's First Flush Hits the Harbors of Orange County" strongly recommended that the County of Orange and the cities within it institute a procedure to substantially reduce the use of EPS within its jurisdiction; and

WHEREAS, there is no meaningful way to recycle EPS products used for food service ware; and

WHEREAS, there are alternatives to EPS products used for food service ware; and

WHEREAS, the City of Dana Point desires to reduce the amount of beach litter and marine pollution and to protect wildlife by reducing the amount of EPS debris that enters the City's storm drains, watershed, ocean waters and beaches; and

WHEREAS, the City Council has proposed a ban on the use of EPS food service products in the City to reduce the prevalence of EPS debris in the City's storm drains, watershed, ocean waters and beaches; and

WHEREAS, the City Council of the City of Dana Point conducted a duly noticed public meeting regarding the proposed ban at their regular scheduled meeting of December 12, 2011 where testimony was invited and received; and

WHEREAS, because the proposed ban is not an activity that will result in an adverse physical change in the environment, the proposed ban does not qualify as a "project" under section 21065 of the Public Resources Code, and accordingly, is not subject to the California Environmental Quality Act (Pub. Res. Code §§ 21000–21177) ("CEQA"); and

WHEREAS, even if the proposed ban qualified as a "project" under section 21065 of the Public Resources Code, the project is exempt from the CEQA because (1) it is an activity undertaken "to assure the maintenance, restoration, enhancement and protection of the environment" (14 C.C.R. § 15308), and/or (2) "it can be seen with certainty that there is no possibility that the activity in question may have a significant [adverse] effect on the environment" (14 C.C.R. § 15061(b)(3)); and

WHEREAS, even though CEQA does not require it, the City is willing to and has prepared an Initial Environmental Study on the proposed ban, and based upon this study, the City determined that the proposed ban is not an activity that will have a significant adverse effect on the environment; and

WHEREAS, because the proposed ban is not an activity that will have a significant adverse effect on the environment, the City prepared a Negative Declaration pursuant to section 21080(c) of the Public Resources Code and hereby adopts this Negative Declaration; and

WHEREAS, the proposed ban will have no negative impact on Fish and Game resources pursuant to Section 21089(b) of the Public Resources Code.



**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DANA POINT HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1.** The above recitations are true and correct and incorporated herein by reference.

**SECTION 2.** A new Chapter 6.46 "Expanded Polystyrene Food Service Ware" is hereby added to Title 6 of the Dana Point Municipal Code to read as follows:

**CHAPTER 6.46 EXPANDED POLYSTYRENE FOOD SERVICE WARE**

**Section 6.46.010 Definitions.**

For the purposes of this Chapter, the following terms shall have the following meanings:

"City Facilities" means any building, structure, or vehicle owned or operated by the City of Dana Point, its agents, agencies, departments, and franchisees.

"Customer" means any person obtaining Prepared Food from a Restaurant or Retail Food Vendor

"Disposable Food Service Ware" means all containers, trays, cartons, cups, and other items that are designed for one-time use and on, or in, which any Restaurant or Retail Food Vendors directly places or packages Prepared Foods or which are used to consume foods. This includes, but is not limited to, service ware for takeout foods and/or leftovers from partially consumed meals prepared at Restaurants or Retail Food Vendors such as plates, cups, bowls, lids, trays, and hinged or lidded containers. This does not include single-use disposable straws or utensils.

"Expanded Polystyrene" (EPS) means polystyrene that has been expanded or "blown" using a gaseous blowing agent into a solid foam. EPS is sometimes called "Styrofoam," a Dow Chemical Co. trademarked form of polystyrene foam insulation.

"Food Vendor" means any establishment located or operating within the City of Dana Point which provides prepared and ready-to-consume food or beverages for public consumption, including, but not limited to any store, supermarket, delicatessen, Restaurant, Retail Food Vendor, sales outlet, shop, cafeteria, catering truck or vehicle, sidewalk or other outdoor vendor, or caterer.

"Polystyrene" means and includes expanded polystyrene, which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques, including but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

“Prepared Food” means food or beverages which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared on the Food Vendor’s premises and within the City of Dana Point with the intent of consumption on or off the premises as the balance of an unfinished meal or as “takeout food.” For the purposes of this Chapter, “Prepared Food” does not include raw, butchered, ground, chopped, or sliced meats, fish, and/or poultry sold from a butcher case or similar retail appliance for subsequent preparation.

“Restaurant” means any establishment located within the City of Dana Point that sells prepared food for consumption on, near, or off its premises by Customers. “Restaurant,” for the purposes of this Chapter, includes mobile food preparation units as defined in Section 6.30.010 of the Dana Point Municipal Code.

“Retail Food Vendor” means any store, shop, sales outlet, or other establishment, including a grocery store or a delicatessen, other than a Restaurant, located within the City of Dana Point that provides Prepared Food.

#### **Section 6.46.020 Polystyrene (EPS) Food Service Ware Prohibited.**

- (a) Except as provided by Section 6.46.030 of this Chapter, Food Vendors are prohibited from providing Prepared Food in Disposable Food Service Ware made of EPS.
- (b) Except as provided by Section 6.46.030 of this Chapter, all City Facilities, City-managed concessions, City-sponsored events, City permitted events and all franchisees, contractors, and vendors doing business with the City are prohibited from using Disposable Food Service Ware made of EPS within the City of Dana Point.

#### **Section 6.46.030 Exemptions.**

- (a) Foods prepared or packaged outside the City of Dana Point are exempt from the provisions of this Chapter. Purveyors of food prepared or packaged outside the City of Dana Point are encouraged to follow the provisions of this Chapter.
- (b) EPS coolers and ice chests that are intended for reuse are exempt from the provisions of this Chapter.
- (c) Upon receipt of a written application, the City Manager, or his or her designee, may exempt a Retail Food Vendor or Restaurant from the requirements of this Chapter for a period of up to one additional year after the operative date of this Ordinance, upon sufficient showing by the applicant that the provisions of this Chapter would cause undue hardship.
  - (1) The phrase undue hardship includes:

(A) Situations where there are no reasonably feasible available alternatives to EPS food service ware for reasons which are unique to the Retail Food Vendor or Restaurant; or

(B) Situations where compliance with the requirements of this Chapter would deprive a person of a legally protected right.

(2) The written application shall include all information necessary for the making of a decision on the application, including but not limited to documentation showing the factual support for the claimed exemption. The applicant may be required to provide additional information to permit the determination of facts regarding the exemption application.

(3) An exemption application may be approved in whole or in part, with or without conditions.

(4) A Retail Food Vendor or Restaurant granted an exemption must reapply in writing prior to the end of the one-year exemption period and demonstrate continued undue hardship if it wishes to have the exemption extended.

(d) The City Manager and/or his designee may also determine to exempt from the requirements of this Chapter the procurement of supplies or services in the event of a proclaimed emergency or when otherwise deemed necessary by the City Manager for the immediate preservation of the public health, safety, or general welfare.

#### **Section 6.46.030 Enforcement.**

(a) Whenever the City Manager or his or her designee finds that any provision of this Chapter has been violated, the City Manager shall give notice of such violation by means of a written warning. In any such warning, the City Manager shall:

(1) Set forth the specific violation or violations found; and

(2) Establish a specific and reasonable period of time for the correction of the violation or violations; and

(3) State that failure to comply with any notice issued in accordance with the provisions of this subsection shall be punishable by a fine in an amount consistent with subsection (b) of this Section.

(b) Following the issuance of a written warning, an offense under this Chapter shall be punishable by a fine of not more than one hundred dollars (\$100.00) for the first conviction, and a fine of not more than two hundred fifty dollars (\$250.00) for the second and any subsequent conviction.

- (c) Each and every day that a violation occurs shall constitute a separate violation of this Chapter.
- (d) The City Attorney may seek legal, injunctive, or other equitable relief to enforce this Chapter.

**SECTION 3. Severability.**

If any Section, Subsection, Subdivision, paragraph, sentence, clause, phrase or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, paragraph, sentence, clause, phrase and portion of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional. To this end, the provisions of this Ordinance are declared severable.

**SECTION 4: Effective Date.**

This Ordinance shall become effective six (6) months after its passage and adoption. Within fifteen (15) days of the date of adoption of this Ordinance, the City Clerk shall post a copy of said Ordinance in places designated for such posting and shall certify to the same. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be published as required by law.

PASSED, APPROVED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
LARA ANDERSON, Mayor

ATTEST:

\_\_\_\_\_  
KATHY M. WARD, City Clerk

STATE OF CALIFORNIA            )  
COUNTY OF ORANGE            ) ss.  
CITY OF DANA POINT            )

I, KATHY M. WARD, City Clerk of the City of Dana Point, do hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was introduced at a regular meeting of the City Council of the City of Dana Point held on the 7th<sup>th</sup> day of February, 2012, and was thereafter duly and regularly passed and adopted by the Council of the City of Dana Point at its regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Said Ordinance has been published or posted pursuant to law. Witness my hand and official seal of the City of Dana Point this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
KATHY M. WARD, City Clerk

**SUPPORTING DOCUMENT B: Letter to Dana Point Business**

August 2010

Dear Dana Point Business!

As you may or may not be aware, the City of Dana Point passed a voluntary Styrofoam and plastic bag use reduction program in July of last year. I have come to follow up with you because the City wants to partner with you and encourage participation for the benefit of our beach and ocean health. This program is important for the following reasons:

- Styrofoam and plastic bags are often made with petroleum, which does not degrade for at least 500 years. They both are resistant to breakdown by light (photolysis). As a result, they stay in landfills or the ocean for very long periods of time.
- The majority of Styrofoam products cannot be recycled because they have been contaminated by food. Styrofoam take-out products often find their way to our beaches and ingestion can kill wildlife.
- CR&R does recycle plastic bags, but only under certain conditions (CR&R requires them to be collected and tied up in a bag).
- Because Styrofoam is so bulky and light, it fills up containers more quickly or floats to the ocean, littering our beaches.
- Substitutes for plastic and Styrofoam such as post-consumer recycled paper, bamboo, and corn plastics are easily renewable resources, and the technologies used to develop these alternatives have become less expensive. Reusable bags are even better.

The purpose of this program is to provide information that would help your business reduce the consumption and distribution of non-renewable products. In our City survey we found over one-third of City businesses have now already embraced the ban. These businesses tell us they are marketing their "clean beaches" approach as well. As the City continues its ongoing beautification efforts, we hope that your business would consider the benefits of using alternatives to plastic and Styrofoam.

Provided is a list of businesses that distribute environmentally preferable packaging and bags. We do not promote or support one company over the other. Instead, the goal is to provide a list of companies that can provide your business with alternative, eco-friendly food containers and bags.

In addition, the Dana Point Chamber of Commerce will work with member businesses in support of this program. The Chamber would like to see if restaurants would combine their purchasing power in order to receive volume discounts on packaging. The Chamber could act as a wholesaler from which the businesses could purchase their packaging—much like a retailers' cooperative. They have a similar program now with paper products.

Additional suggestions include:

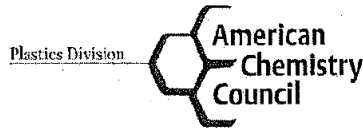
- The promotion of reusable bags and containers through appropriate signage at the business (if applicable).
- A minimal fee imposed on customers when they request a single-use bag or container.

The bottom line is that, as a coastal community, Dana Point wants to reduce marine debris and protect water quality and wildlife.

If you have any additional suggestions or recommendations on how to promote this voluntary ban, please contact Lynn Kelly at (949) 248-3512 or [lkelly@danapoint.org](mailto:lkelly@danapoint.org) as we welcome your feedback.

Sincerely,  
Aliana Lungo  
City of Dana Point

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**SUPPORTING DOCUMENT C: Comment Letters**

December 9, 2011

The Honorable Scott Schoeffel  
 Mayor, City of Dana Point  
 33282 Golden Lantern  
 Dana Point, California 92629

**Subject: POLYSTYRENE FOODSERVICE BAN - OPPOSE UNLESS AMENDED**

Dear Mayor Schoeffel:

The Plastics Foodservice Packaging Group (PFPG), of the American Chemistry Council (ACC) must express our opposition to the proposed ordinance to ban polystyrene food service products.

Though we appreciate and support the city of Dana Point's intent to reduce litter and disposal, we believe the better policy approach would be to establish a clear recycling and composting standard by which ALL material types must meet. As currently drafted, the proposed ordinance fails to recognize that Dana Point does not have a fully developed industrial composting infrastructure for this alternative material. It is important to note that any "compostable" materials that are not handled by an industrial composting facility are unlikely to completely biodegrade.

In addition, the proposed ordinance assumes alternatives to polystyrene foam are better for the environment. This assumption is incorrect. Several independent studies have demonstrated that such a proposal could have significant negative environmental impacts because *alternatives such as coated bleached paperboard and "compostables" generate significantly more greenhouse gas emissions, use more energy and generate more solid waste.*<sup>1,2,3</sup>

All products take raw materials and use energy to manufacture and have associated emissions (air, water, solid waste) and energy impacts. Many life cycle studies have been conducted for polystyrene foam foodservice products and their substitutes and alternatives.

For example, the City of Seattle, Washington's own independent analysis<sup>4</sup> of a polystyrene foam (EPS) ban concluded the following impacts would occur:

- Non-renewable energy would increase 214%
- Greenhouse gas (GHG) emissions would increase 234%
- Ozone would increase 134%
- Acidification would increase by 179%
- Eutrophication would increase by 104%
- Waste generated would increase by 240%.

In the City of San Francisco, litter audits show a ban of polystyrene has not reduced litter, and in 2008 they empirically found a 36% reduction in polystyrene litter was *offset by an increase of the same*

<sup>1</sup> Final Peer-Reviewed Report: Life Cycle Inventory of Polystyrene Foam, Bleached Paperboard and Corrugated Paper Foodservice Products, Franklin Associates, Ltd., prepared for Polystyrene Packaging Council, March 2006, <http://www.plasticsfoodservicepackaging.org>

<sup>2</sup> Paper or Styrofoam, A Review of the Environmental Effects of Disposable Cups, University of California at San Diego (UCSD), Dec 2006

<sup>3</sup> Life Cycle Inventory of Foam and Coated Paperboard Plates, Peer-Reviewed Final Report, prepared for Pactiv Corporation, Franklin Associates, Ltd., May 2008

<sup>4</sup> Alternative to Disposable Shopping Bags and Food Service Items Volume I, prepared for Seattle Public Utilities, January 2008, Herrera Environmental Consultants



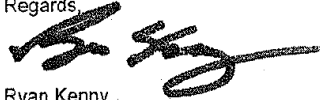
*percentage of coated paperboard on an item by item basis. It is also important to note that neither coated paperboard nor any compostable foodservice "biodegrade" if littered.*

Despite claims to the contrary, and even with a co-op arrangement, compostable alternatives cost on average two times more than polystyrene foam foodservice. This impact would be more severe on small restaurants and vendors,<sup>5</sup> and potentially devastating in the current economic climate.

We encourage the Dana Point City Council to instead work with industry, restaurants, recyclers and other stakeholders to develop a takeout food packaging ordinance that sets a recycling and composting benchmark by which all material types must then meet.

Thank you for taking the time to consider our views. If you have any questions or comments, please do not hesitate to contact us.

Regards,



Ryan Kenny  
Manager, State Affairs  
American Chemistry Council

ATTACHMENT (1)

cc: Members, Dana Point City Council  
City Clerk

<sup>5</sup> Polystyrene & Replacement Costs, MB Public Affairs, prepared for Polystyrene Packaging Council, March 2, 2006



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Alternatives to Disposable Shopping  
Bags and Food Service Items  
Volume I

Prepared for  
Seattle Public Utilities

January 2008

The shaded fields in the Table ES-3 show those strategies with highest reductions in each of the economic cost and environmental burden categories, compared to the status quo. An ARF on all disposable shopping bags provides the most environmental gains (except for litter), and provides for much higher overall economic gains when compared to all strategies. With an ARF on all bags, consumers experience slightly less costs than with a plastic only ARF (due to an anticipated increase in reusable bags), and the region experiences much more economic cost (due to decreased paper production). Again, the City and retailers may both benefit from revenue under either a plastic only or an all-bag ARF

#### **Disposable Food Service Items**

The strategies to address disposable food service items were narrowed to the following five for further life cycle cost/benefit and environmental assessment:

- Enhanced education: Begin a public outreach, education and promotional campaign specifically focused on owners/managers of restaurants, cafes, and coffee shops to encourage replacement of disposable food service items with recyclable or compostable alternatives managed through recycling and food waste composting programs. This would become part of SPU's ongoing reduce-reuse-recycle messaging. Expanded polystyrene (EPS) products would be especially discouraged.
- Enhanced education plus ban on expanded polystyrene (EPS) products: Implementation of mandatory ban on EPS food service items only at all food vendors in Seattle. Ban to be phased in plus a later deadline for all food service items to be compostable or recyclable with restaurants enrolled in composting or recycling programs.
- Enhanced education plus advanced recovery fee (ARF) on expanded polystyrene (EPS) products only. The ARF (likely range, 10 to 25 cents) could be remitted entirely to the City, split by the City and merchants who would use their share to promote reusable alternatives and recycling, or retained entirely by merchants for promotion and administrative costs.
- Enhanced education plus advanced recovery fee (ARF) on all non-compostable and non-recyclable food service ware items. The ARF (likely range, 10 to 25 cents) could be remitted entirely to the City, split by the City and merchants who would use their share to promote reusable alternatives and recycling, or retained entirely by merchants for promotion and administrative costs.

Table ES-4 shows a comparison between all environmental categories and the NPV economic costs and benefits calculated earlier. These results were derived from a case study of hot food "clamshell" type containers and may not apply in other cases. (See page 6-23 for the assumptions regarding vendor and consumer behavior when required to switch products.)

Table ES-4. Economic and environmental costs and benefits normalized to status quo.

	Units	Status Quo	Education	Ban EPS	ARF on EPS	ARF on All Types
NPV	\$	100%	119%	169%	176%	199%
Non-Renewable Energy	Megajoules (MJ)	100%	105%	214%	173%	156%
GHG Emissions	kg CO2 eq.	100%	105%	234%	185%	162%
Ozone	g ethylene eq.	100%	100%	134%	120%	105%
Acidification	kg SO2 eq.	100%	104%	179%	149%	142%
Eutrophication	kg PO4 eq.	100%	101%	104%	103%	108%
Waste Generated	Tons	100%	105%	240%	189%	162%

Notes: 1. Environmental category units produced summed over a 30-year time frame  
 2. (NPV) economic costs and benefits over a 30-year time frame  
 3. Discount rate: 3 percent

Ban on EPS has most negative Greenhouse gas effects

The shaded fields in Table ES-4 show that all strategies have increases in each of the economic cost and environmental burden categories, compared to the status quo. However, the permanence of plastic in the environment dictates its use be minimized. An ARF on all non-compostable, non-recyclable clamshells reflects the least environmental impacts among bans and ARFs. This is due primarily to the incentive toward compostables (e.g., polylactic acid, PLA), which results in lower impacts than paper and polyethylene terephthalate (PET) in the environmental categories considered. The exception is in eutrophication potential, due to nitrogen and phosphorus runoff in agriculture.

Higher composting rates for compostable products, and the potential increase in organics composted with compostable food service products, would likely provide additional energy and greenhouse gas benefits, and cost savings.

Retail Cost Comparison - Website  
World Centric vs. Polystyrene Foam

Product Description	Polystyrene (Average of 2 websites)	World Centric alternatives (www.worldcentric.org)	Difference
16 oz Hot Cup & Lid (w/ sleeve for paper cup)	\$72.02 per 1000	\$233.13 per 1000	
	\$0.072 per set	\$0.233 per set	224% Higher than PS Foam
16 oz Cold Cup & Lid	\$72.02 per 1000	\$172.71 per 1000	
	\$0.072 per set	\$0.173 per set	140% Higher than PS Foam
12 oz. Bowl & Lid	\$55.28 per 1000	\$64.25 per 500	
	\$0.055 per set	\$0.128 per set	132% Higher than PS Foam
6" Plate	\$26.97 per 1000	\$43.61 per 1000	
	\$0.027 per plate	\$0.0436 per plate	62% Higher than PS Foam
9" Plate	\$25.88 per 500	\$108.87 per 1000	
	\$0.052 per plate	\$0.109 per plate	111% Higher than PS Foam
10" Plate	\$40.10 per 500	\$108.87 per 1000	
	\$0.082 per plate	\$0.109 per plate	36% Higher than PS Foam
6" Clamshell	\$32.18 per 500	\$68.97 per 500	
	\$0.064 per unit	\$0.138 per unit	114% Higher than PS Foam
9" Clamshell	\$25.78 per 200	\$86.64 per 300	
	\$0.129 per unit	\$0.289 per unit	124% Higher than PS Foam
Utensils	\$19.91 per 1000	\$59.28 per 1000	
	\$0.020 per unit	\$0.059 per unit	196% Higher than PS Foam
Websites for PS Foam: webrestaurantstore.com & waresdirect.com)		World Centric pricing: worldcentric.org website	
All pricing samples taken on 5-27-11 and include shipping			

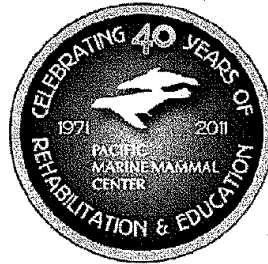
**HLCs = 8"**

Material/Size	Mfg	RD Shelf	Case Pack	Price Each	With Lid	MULTIPLIER VS FOAM
<b>Polystyrene Foam</b>						
8" Single Compartment	Pactiv	\$ 12.69	150	\$ 0.085		
8" 3 Compartment	Pactiv	\$ 12.80	150	\$ 0.085		
8" 3 Compartment	Sunset	\$ 14.34	200	\$ 0.072		
<b>ALUMINUM</b>						
9" Single compartment	HFA	\$ 47.64	500	\$ 0.095		
Clear PS lid	HFA	\$ 25.89	500	\$ 0.052	\$ 0.147	173%
Foil paperboard lid	HFA	\$ 23.12	500	\$ 0.046	\$ 0.142	166%
<b>Molded Fiber/Bagasse</b>						
8" Single Compartment	Primeware	\$ 28.39	200	\$ 0.142		167%
8" 3 Compartment	Primeware	\$ 28.39	200	\$ 0.142		167%
<b>OPS</b>						
8" Single Compartment	Pactiv	\$ 33.50	200	\$ 0.168		197%
8" 3 Compartment	Pactiv	\$ 33.50	200	\$ 0.168		197%
<b>Polypropylene</b>						
8" Single Compartment	Pactiv	\$ 34.00	200	\$ 0.170		200%
8" 3 Compartment	Pactiv	\$ 34.00	200	\$ 0.170		200%
<b>BioPack (100% recycled Paper)</b>						
Medium size	BioPack	\$ 38.05	200	\$ 0.190		224%
Large Size	BioPack	\$ 48.34	200	\$ 0.242		284%
<b>PLA</b>						
8" Single Compartment	Pactiv	\$ 65.00	200	\$ 0.325		382%
8" 3 Compartment	Pactiv	\$ 65.00	200	\$ 0.325		382%
<b>NEWSPRINT - injection molded polypropylene</b>						
8" Single Compartment	Pactiv	\$ 78.79	150	\$ 0.525		618%
8" 3 Compartment	Pactiv	\$ 60.03	150	\$ 0.400		471%

**CUPS 12/16/20 OZ**

<b>Hot Cups</b>		<b>Mfg</b>	<b>RD Shelf</b>	<b>Case Pack</b>	<b>Price Each</b>	<b>MULTIPLIER VS FOAM</b>
<b>Polystyrene Foam</b>						
12oz	WinCup	\$ 20.10	1000	\$ 0.020		
16oz	WinCup	\$ 14.11	500	\$ 0.028		
20oz	WinCup	\$ 17.24	500	\$ 0.034		
Lids - PS White	WinCup	\$ 15.45	1000	\$ 0.015		
Lids - PS Translucent	WinCup	\$ 13.01	1000	\$ 0.013		
<b>Translucent Polystyrene</b>						
12oz	Fabri-Kal	\$ 29.07	1000	\$ 0.029		145%
16oz	Fabri-Kal	\$ 40.62	1000	\$ 0.041		144%
20oz	Fabri-Kal	\$ 59.83	1000	\$ 0.060		174%
Lids - PS Translucent	Fabri-Kal	\$ 26.12	1000	\$ 0.026		169%
Lids - PS Translucent	Fabri-Kal	\$ 28.75	1000	\$ 0.029		186%
<b>Coated Paper Hot Cups</b>						
12oz	Sunset	\$ 28.08	600	\$ 0.047		233%
16oz	Sunset	\$ 34.21	600	\$ 0.057		202%
20oz	Sunset	\$ 34.65	500	\$ 0.069		201%
<b>Coated Paper Hot Cups</b>						
12oz	Int'l Paper	\$ 28.84	600	\$ 0.048		239%
16oz	Int'l Paper	\$ 36.85	600	\$ 0.061		218%
20oz	Int'l Paper	\$ 39.47	500	\$ 0.079		229%
Lids - PS White	Int'l Paper	\$ 33.08	1200	\$ 0.028		178%

Cold Cups		RD Shelf	Case Pack	Price Each	MULTIPLIER
Polystyrene Foam					VS FOAM
Material/Size	Mfg				
12oz WinCup		\$ 20.10	1000	\$ 0.020	
16oz WinCup		\$ 14.11	500	\$ 0.028	
20oz WinCup		\$ 17.24	500	\$ 0.034	
Lids - PS White		\$ 15.45	1000	\$ 0.015	
Lids - PS Translucent		\$ 13.01	1000	\$ 0.013	
<b>Coated Paper Cold Cups</b>					
12oz Int'l Paper		\$ 27.24	600	\$ 0.045	226%
16oz Int'l Paper		\$ 34.94	600	\$ 0.058	206%
20oz Int'l Paper					
Lids - PS Translucent					
<b>APET Cups</b>					
12oz Fabri-Kal		\$ 27.50	500	\$ 0.055	274%
16oz Fabri-Kal		\$ 30.99	500	\$ 0.062	220%
20oz Fabri-Kal		\$ 39.95	500	\$ 0.080	232%
Lids Flat 12/20		\$ 29.40	1000	\$ 0.029	190%
Lids Flat 16/24		\$ 30.51	1000	\$ 0.031	197%
<b>PLA Cold Cups (Compostable)</b>					
12oz Fabri-Kal		\$ 69.18	1000	\$ 0.069	344%
16oz Fabri-Kal		\$ 74.10	1000	\$ 0.074	263%
20oz Fabri-Kal		\$ 92.08	1000	\$ 0.092	267%
Lids Flat 12/20		\$ 31.75	1000	\$ 0.032	206%
<b>HIPS Party Cups</b>					
16oz GenPak		\$ 52.71	1200	\$ 0.044	156%



## BOARD OF DIRECTORS

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Kelli Lewis  
*Director of Education*

Dear Dana Point City Council Members,

The Pacific Marine Mammal Center has functioned as the sole marine mammal rehabilitation facility in Orange County for 40 years with a mission to:

- ❖ Rescue, medically treat, and rehabilitate Pinnipeds (seals and sea lions) and cetaceans (dolphins and whales) that strand along the Orange County coastline due to illness or injury;
- ❖ Release healthy marine mammals to their natural habitat, while preserving species diversity;
- ❖ Increase public awareness of the marine environment through education and research.

The Pacific Marine Mammal Center is greatly concerned with the environmental issues that impact marine life. We at the center see, on a regular basis, the negative and life threatening results of trash and other materials that have been allowed to invade marine environments.

In a large jar in our display case floats the stomach contents of a young sea lion pup, "Ping" who came to our center malnourished and died despite our best efforts to save him. The jar contains one plastic grocery bag, two sandwich bags, multiple pieces of Styrofoam and four colorful balloons. Ping's plight is one of the devastating results of marine pollution that is impacting the world's oceans at an increasing level. Plastic marine debris affects at least 267 species worldwide, including 86 percent of all sea turtle species, 44 percent of all sea bird species, and 43 percent of marine mammal species. (Marine Debris – Sources, Impacts and Solutions, Coe, J. M. and D. B. Rogers)

"As much as 80 % of all marine debris comes from land-based sources, blown there by the winds or carried there by storm drains and rivers. People, wherever they are, need to learn to dispose of, or recycle waste better. It's a behavioral issue," says Seba Sheavly, an authority on marine debris and consultant for Ocean Conservancy International Coastal Clean up. While Pollution prevention and storm drain education are incorporated into all of the Pacific Marine Mammal Center's education programs, the students who are educated about reducing plastic marine will not be your city's primary consumers until 2025. Policies to protect our ocean and coast from further pollution are needed now as the amount of degradation from plastic we have seen in the last ten years has been considerable.

We strongly support and encourage the City of Dana Point in its efforts to reduce and/or control waste materials that harm marine and other physical environments.

Regards,

Jock Stalker                      Carole Zavala

Board Chair                      Executive Director

20612 LAGUNA CANYON ROAD · LAGUNA BEACH CA 92651 · 949.494.3050 · 949.494.2802 Fax

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Agenda Item No. 15

12/12/11

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Jan 23 2012 10:23AM CRL REST ASSOC

p. 2



January 24, 2012

The Honorable Lara Anderson  
Mayor, City of Dana Point  
33282 Golden Lantern  
Dana Point, CA 92629

**Subject: Polystyrene Food Service Ban- OPPOSE**

Dear Mayor Anderson,

The California Restaurant Association (CRA) respectfully opposes the proposed ordinance to ban polystyrene food service packaging.

The restaurant community shares the on-going concern over litter, particularly marine debris, and participates in many local communities throughout the state on litter abatement efforts. Marine debris is an issue that the industry takes very seriously. However, we believe that discriminatory selection and elimination of a given type of food service packaging is a shortsighted way to address the problem of litter. When litter reduction occurs on city streets, the amount of material that flows through drains, rivers and ultimately to the ocean is also reduced. Efforts should be aimed at reducing all composition of litter, not a single product, so that the overall volume of material reaching the marine environment is reduced.

As for the specific products targeted in this bill, polystyrene foam food packaging containers are among the most efficient for keeping foods fresh and hot or cold. That is why it is standard practice for ice cream, frozen yogurt and smoothie shops, amongst others, to use foam packaging.

For an industry characterized by razor thin profit margins of 5-6% on the dollar in a good economy, cost always has to be a consideration in addition to the functional value of a product. Schools, hospitals, nursing homes, non-profit food programs, delis, and family-owned restaurants are among the many institutions that rely upon polystyrene foam for its excellent insulation at an economical price. Alternative packaging materials are as high as 2-3 times more expensive, according to the nation's leading distributors.

Cost differences are felt differently by different sizes, types, and locations of restaurants and therefore have differing impact on the industry. The cumulative effect of additional cost pressures only serves to harm the industry.

PREPARE TO BE INSPIRED.

621 Capitol Mall, Suite 2000 Sacramento, CA 95814 T: 800.765.4842 F: 916.447.6182 [www.calrest.org](http://www.calrest.org)

Jan 25 2012 10:23AM CAL REST ASSOC

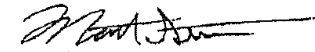
p. 3

In addition to the higher cost of alternative materials, the functionality of the products targeted under the proposed ban is outstanding. While some restaurants choose not to use foam products and others are under local ordinance bans on the product- many restaurants still choose to use the product because of its functional value being the best match for the type of food offered and it costs significantly less. Many operators are struggling with alternative products and the structural integrity of them. What works for a sandwich may not necessarily work as well for enchiladas, lasagna, soups, smoothies or frozen yogurt for instance. The type of food or drink being served matters very, as operators that are having their packaging options dictated to them by government entities, often have to use other materials within the alternative packaging to avoid leakage or "double cup" to properly preserve the temperature of certain items. This creates even more waste.

Foam is being recycled today in various regions and we support that effort and want to continue to help expand that effort, but we can't support discriminatorily banning certain types of food packaging and imposing higher costs on restaurant operators in Dana Point.

For these and other reasons, we respectfully must oppose the proposed ordinance and appreciate your time and consideration of our views.

Sincerely,



Matt Sutton  
Senior Legislative Director

cc: Members, Dana Point City Council  
City Clerk

**BRAD FOWLER**

---

**From:** KATHY WARD  
**Sent:** Wednesday, February 01, 2012 11:12 AM  
**To:** BRAD FOWLER  
**Subject:** FW: Plastic Bays & Styrofoam

**Attachments:** image005.jpg; image006.jpg



image005.jpg (2 KB)



image006.jpg (2 KB)

FYI...

-----Original Message-----

**From:** lara@laraanderson.org [mailto:lara@laraanderson.org]  
**Sent:** Wednesday, February 01, 2012 10:34 AM  
**To:** DOUG CHOTKEVYS  
**Cc:** KATHY WARD  
**Subject:** Fwd: Plastic Bays & Styrofoam

----- Forwarded message from Bruce@bealbusinesslaw.com -----

**Date:** Wed, 1 Feb 2012 17:56:14 +0000  
**From:** Bruce Leonard Beal <Bruce@bealbusinesslaw.com>  
**Reply-To:** Bruce Leonard Beal <Bruce@bealbusinesslaw.com>  
**Subject:** Plastic Bays & Styrofoam  
**To:** Bill Brough <"CouncilmanBillBrough[b2"@billbrough.org]>,  
 LARA ANDERSON <landerson@DanaPoint.org>, Lisa Bartlett <LBartlett1@aol.com>, SCOTT  
 SCHOEFFEL <SSchoeffel@DanaPoint.org>, STEVEN WEINBERG <sweinberg@DanaPoint.org>  
**Cc:** "kerr@cox.net" <kerr@cox.net>, Ed Conway <ewconway@cox.net>, Mits  
 <mits@minutemanpress.com>, Alan Wickstrom <alan@buildingonline.com>, Jim Miller <mokaman1  
 @cox.net>

NOTE: This email contains legal advice and is therefore confidential, attorney-client privileged, and is further subject to the qualifications located below this email.

Dear Council Members,

Please be aware of the California Chamber of Commerce position on the proposed State Polystyrene Food Container Bill SB 568. This proposed bill was moved to the Inactive File. Also, see the attached similar material (sorry for the fuzziness).

[http://www.calchamber.com/aboutus/documents/2011\\_major\\_victories.pdf](http://www.calchamber.com/aboutus/documents/2011_major_victories.pdf)

We would hope that you seek outreach and get additional input from merchants and consumers on this government regulation with significant impact on merchants and consumers.

More coming on the plastic bag side.

Sincerely,  
 [Beal signature alone]  
 Bruce Leonard Beal, Esq.

Beal Business Law

34232 Pacific Coast Highway, Suite D  
Dana Point CA 92629  
Tel: 949-481-5555  
Web: BealBusinessLaw.com  
Blog: BealBusinessLaw.Blogspot.com

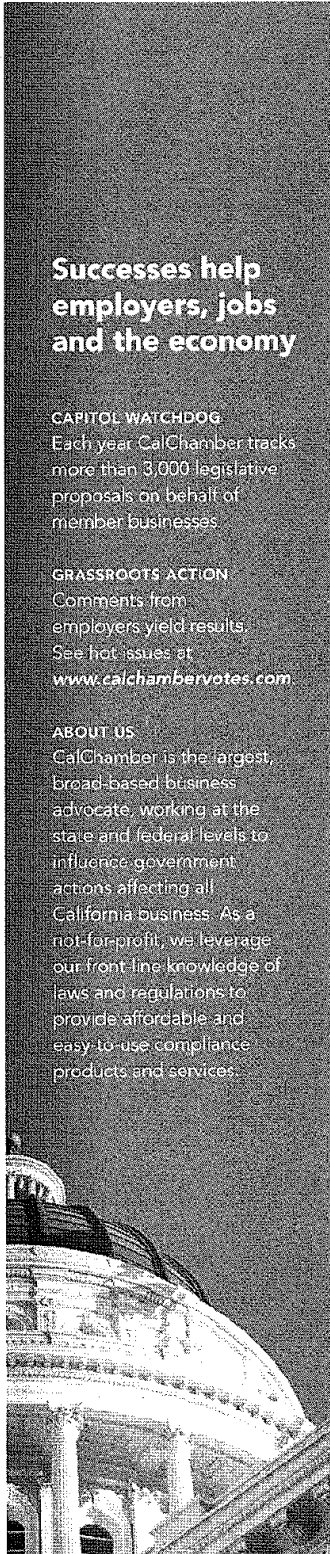
[A - BruceBeal2010]

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## Successes help employers, jobs and the economy

### CAPITOL WATCHDOG

Each year CalChamber tracks more than 3,000 legislative proposals on behalf of member businesses.

### GRASSROOTS ACTION

Comments from employers yield results. See hot issues at [www.calchambervotes.com](http://www.calchambervotes.com).

### ABOUT US

CalChamber is the largest broad-based business advocate, working at the state and federal levels to influence government actions affecting all California business. As a not-for-profit, we leverage our front line knowledge of laws and regulations to provide affordable and easy-to-use compliance products and services.



## 2011 Major Victories

### Fighting for Jobs, Creating Certainty in an Uncertain Economy

The California Chamber of Commerce is the voice of California business, expert at speaking for pro-job policies and advising employers on how state laws and regulations will affect the workplace. We track more than 3,000 legislative proposals every year, sounding the alarm when a bill will hurt employers and the economy, and working to win support for legislation that will help the jobs climate. Policymakers listen to CalChamber advocates, knowing that we speak for more than 13,000 member businesses employing a fourth of the state's private workforce and reflecting the diversity of the California business community.

Further emphasizing our message are the thousands of individuals who use our Web-based grassroots center, [www.calchambervotes.com](http://www.calchambervotes.com), to make their views known to their elected representatives. Each year, website visitors use the grassroots center to send some 200,000 letters about state and federal issues affecting business operations.

Read on to learn how CalChamber advocacy in 2011 helped employers. See the Advocacy Return on Investment sheet for estimates of employer savings on some of these victories.

### Stopping 29 of 30 'Job Killer' Bills

The skill of CalChamber policy advocates, joining forces with other business groups and pro-jobs legislators, prevented all but five "job killer" bills from passing the Legislature. The Governor vetoed four of the five "job killers." Below is a sampling of "job killers" that won't become law. More information at [www.calchamber.com/jobkillers](http://www.calchamber.com/jobkillers).

- **Stopped costly workplace mandates**, such as an automatic minimum wage increase (AB 10); changes increasing workers' compensation costs (AB 375, AB 1155); protected classification for employees who use medical marijuana (SB 129); and elimination of secret ballot elections for agricultural workers (SB 104).
- **Prevented expansion of employer liability** by proposals to add more reasons for taking family and medical leave (AB 59); mandate paid sick leave (AB 400); and elevate bereavement leave to the same level as the right to be free from racial or gender discrimination (AB 325).
- **Kept lid on inflated liability costs** by advocating veto of a bill undermining judicial discretion (AB 559); securing amendments to legislation that could have led to new shakedown lawsuits against businesses (SB 111); and killing a bill that would have undermined enforcement of arbitration agreements in contracts (AB 1062).
- **Blocked new barriers to economic development**, such as a requirement for certain contractors to retain the employees of a former contractor (AB 350); a proposal requiring tax credits to sunset (SB 508); a "split roll" property tax (AB 448); and a multitude of hidden and specific tax hike proposals (AB 832, AB 1130, AB 1239, SB 237, SB 535, SB 653, SBX1 23).
- **Halted expensive, unnecessary regulatory burdens**, including a ban on the use of polystyrene foam food containers (SB 568); and a complex, unworkable health care rate regulation process (AB 52).

### Promoting Expansion of Trade Opportunities for California Goods and Services

Part of broad-based coalitions whose five-year campaigns secured congressional passage of free trade agreements with Korea, Panama and Colombia, estimated to increase U.S. exports by billions of dollars and improve the jobs climate.

**Helping Control Workers' Compensation Costs**

Backed proposals signed into law to lower pharmaceutical costs, lower frictional costs in the workers' compensation system, streamline the process, establish a fee schedule for vocational experts and ensure contractors have coverage (AB 378, AB 335, AB 1426, AB 1168, AB 397).

**Improving Education**

Supported legislation signed into law that will increase high school graduation rates, improve the college and workplace readiness of those graduates and train teachers to better prepare California's students to compete in a global economy by emphasizing education programs that provide students with real-world experience and rigorous coursework to help them engage and excel (SB 611, SB 612).

**Conforming State to Federal Law on Dependent Health Care**

Supported conforming state to federal law regarding treatment of employee premium payments for adult children health care coverage as non-taxable income (AB 36).

**Preventing Electricity Cost Increases**

Stopped eight-year extension of a tax (public goods charge) on electricity ratepayers in the territories of the investor-owned utilities (AB 724, SBX1 28).

**Preserving Employer Ability to Use Payroll Cards**

Secured veto of bill essentially prohibiting financial institutions from charging fees related to the use of payroll cards, thereby imposing a de facto ban on the product and eliminating employers' ability to offer this cost-beneficial option for paying wages to employees (SB 931).

**Preventing Interference with Employment Contracts**

Opposed and secured veto of proposal that would have limited parties' right to contract by characterizing any non-California choice-of-forum clauses and/or choice-of-law clauses in employment contracts as void and unenforceable, unless additional compensation was paid to include such provisions (AB 267).

**Clarifying Leave Requirements**

Sponsored legislation signed into law to clarify the requirements of paid bone marrow and/or organ donation leave, to provide employers with certainty as to how this leave should be implemented (SB 272).

**Keeping Lid on Mortgage Costs**

Stopped a \$20,000 per foreclosure tax that would have been used for purposes unrelated to the foreclosure and increased the costs of homeownership for new borrowers (AB 935).

**Reforming Regulatory Process**

Worked for legislation to reform the regulatory process by requiring an economic analysis of all major regulations at the beginning of the regulatory process, thus providing more transparency and better data on which to base selection of most cost-effective regulatory alternative (SB 617).

**Protecting Victims of Identity Theft**

Backed urgency bill to authorize restitution for expenses for three years to monitor an identity theft victim's credit report and for the costs to repair the victim's credit (SB 208).

**Protecting California Agriculture**

Provided farmers and ranchers an additional tool to help prevent vertebrate pests from destroying valuable California agricultural products by allowing the use of carbon monoxide for vertebrate pest control purposes (SB 634).

**Promoting Food Safety**

Supported urgency legislation clarifying which food facilities are subject to food safety training rules and who can offer certification courses (SB 303).

**2011 MAJOR VICTORIES**

**SUPPORTING DOCUMENT D:** New correspondence received since Feb. 7<sup>th</sup> Council Meeting

February 7, 2012

The Honorable Lara Anderson, Mayor  
City Council Members  
City of Dana Point  
33282 Golden Lantern  
Dana Point, CA 92865

Dear Mayor Anderson and Members of the City Council,

On behalf of the South Orange County Economic Coalition, we are writing to urge you and your council colleagues to vote "NO" tonight on the **proposed plastic bag ban ordinance** as well as the **proposed ban on polystyrene food service containers**.

Our organization, led by the South Orange County Regional Chamber of Commerce, exists to provide a strong voice for business throughout the region, from Lake Forest to San Clemente and everywhere in between. Members include the Dana Point Chamber of Commerce, the Orange County Business Council, the Orange County Association of Realtors and several other organizations representing thousands of employees in your city and the surrounding region.

All of us want a clean environment. However, heavy-handed, punitive regulations are the wrong ways to go about it. California is plagued with well-intended ordinances such as these that are severely retarding economic growth. These particular ordinances would negatively impact Dana Point business owners, their employees as well as consumers during difficult economic times.

What's more, while these ordinances would impose unnecessary costs on merchants within Dana Point city limits, they would have no jurisdiction over retailers at county-owned properties such as Dana Point Harbor or the snack shop at Salt Creek Beach. Similarly, they will have no effect on concessionaires at Doheny State Beach. In other words, the points-of-sale closest to the coast will be beyond the reach of these ordinances and are likely not subject to this proposed ordinance. Furthermore, there is nothing to prevent visitors and residents from bringing plastic bags or polystyrene containers purchased outside of Dana Point.

Prohibiting local businesses from providing their customers with the option of using plastic bags or polystyrene containers is intrusive and anti-free enterprise. They will impose very real costs with little tangible benefits. Local business owners should be free to make their own choices about using only plastic bags or polystyrene containers – or perhaps incentivized to do so – and not have that choice made for them by the government.

Reducing the number of plastic bags being used near a marine environment is a noble effort. But the real issue here is littering, and the most effective approach to reducing that very real problem is through education and voluntarism, not slamming new regulations and costs on local business owners.

*Public Comment*  
*Item # 11 + 12*  
*2/7/12*

On behalf of the South Orange County business community, we urge you to vote "NO" on these proposed ordinances.

Sincerely,



Jim Leach  
Chair  
South Orange County Economic Coalition



Wendy Bucknum  
Governmental Affairs Committee Chair  
South Orange County Regional Chamber of  
Commerce



**From:** Barbara Tagudar [mailto:barbara1218@sbcglobal.net]

**Sent:** Tuesday, February 07, 2012 6:17 PM

**To:** LARA ANDERSON; STEVEN WEINBERG; LISA BARTLETT; wbrough@danapoint.org; SCOTT SCHOEFFEL; archiedavenport@gmail.com; rhancock@danapointchamber.com; DOUG CHOTKEYS

**Subject:**

Gemmells Restaurant  
34471 Golden Lantern  
Dana Point, CA 92629

It has come to my attention that the City of Dana Point is considering a ban on Styrofoam cups and plates. This is a misguided proposal that I hope the City Council will reject on behalf of small businesses striving to deliver high quality products is safe, reliable packaging.

The recycling of foam is already widely practiced in Southern California. Besides conserving natural resources, reducing waste, and preventing pollution associated with landfills, recycling saves significant amounts of energy and reduces greenhouse gases in comparison to virgin materials. Therefore, instead of a ban, recycling is a far more considered approach and simply put, it is a proven solution.

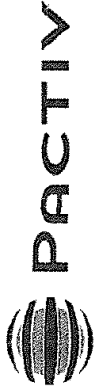
Furthermore, foam recycling follows established paper, plastic and aluminum programs that have successfully reduced landfill pollution and energy use. Expanded and easy access to recycling for residents and businesses would grow markets for recycled goods, which will boost the local economy and create jobs at a time when the county is struggling economically.

In regards to all things, there are so many mom and pop restaurants trying to service the community, in good faith, and to ban items like Styrofoam cups, plates and plastic bags which are such a convenient cost for all, this would just take it to the limit with a higher cost which is double or even triple the cost of these items. Small businesses pinch pennies to keep their doors open and to stay alive.

I urge the City Council to consider the far more sustainable and economically reasonable solution of recycling instead of proscriptive measures. Our environment and our economy will be in better shape through the promotion of the recycling and reuse industries,

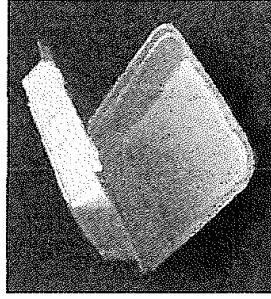
*Gemmell's Restaurant*  
*34471 Golden Lantern*  
*Dana Point, CA 92629*  
*(949) 234 - 0063 Business*  
*(949) 234 - 0591 Fax*  
*[www.opentable.com](http://www.opentable.com)*  
*[www.gemmellsrestaurant.com](http://www.gemmellsrestaurant.com)*  
*Continental and French Cuisine*  
*Join us as legendary Chef Byron prepares special sauces,*  
*as well as unique specials daily.*  
*Also Ask us about our Banquet Room for Private Events*

Public Comment  
Item 18  
2-7-12



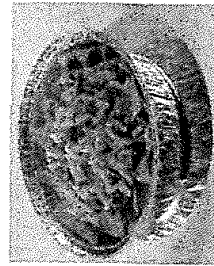
# Polystyrene Foam Less waste

- Polystyrene not only costs less to manufacture than many similar products, it also weighs less – and that means the potential for less waste to landfills
  - Polystyrene foam containers are typically 70% lighter than paperboard containers



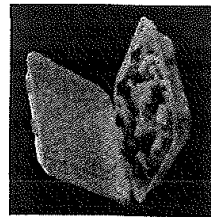
Polystyrene foam hinged lid container

## Similar products, in comparison



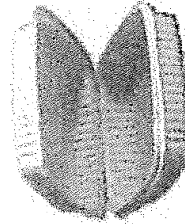
**Aluminum**

Costs 1.8 times more  
Weights 1.6 times more



**Molded Fiber**

Costs 2.7 times more  
Weights 2.5 times more



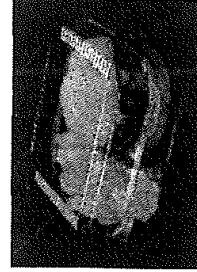
**Starch**

Costs 2.9 times more  
Weights 2.6 times more



**PP**

Costs 2.4 times more  
Weights 3.4 times more



**PLA**

Costs 3 times more  
Weights 2.4 times more



**Paper**

Costs 3.1 times more  
Weights 2.2 times more

*Public Comment  
Item # 12 2-7-12*



**The Better Coalition**  
 Advocating a Robust Recycling Effort by Local Governments and  
 Businesses that Boosts the Local Economy and Creates Jobs.

Yes, please add my establishment to the BETTER Coalition opposing EPS "Styrofoam" bans in the City of Dana Point.

Government bans on foam packaging hurt small businesses, are detrimental to the local economy and jeopardize jobs. On behalf of the BETTER Coalition, we support economically sensible alternatives, such as recycling and community education, that address the root causes of litter and make real impacts on our environment.

*Byron Gemmell* *Chief Owner* *Gemmell's*  
 Name Title Establishment

*Ry Burrell* *General Manager* *Sally Roger Pet.*  
 Name Title Establishment

*Tony* *Owner* *Slice of New York*  
 Name Title Establishment

*Michael* *G-M* *REnaissance*  
 Name Title Establishment

Public Comment  
 Item #12  
 2-7-12



**The Better Coalition**  
 Advocating a Robust Recycling Effort by Local Governments and  
 Businesses that Boosts the Local Economy and Creates Jobs.

Yes, please add my establishment to the BETTER Coalition opposing EPS "Styrofoam" bans in the City of Dana Point.

Government bans on foam packaging hurt small businesses, are detrimental to the local economy and jeopardize jobs. On behalf of the BETTER Coalition, we support economically sensible alternatives, such as recycling and community education, that address the root causes of litter and make real impacts on our environment.

<i>Timmy</i>	<i>Owner</i>	<i>Newport Delicatessen</i>
Name	Title	Establishment

<i>Samir Ibregith</i>	<i>PRESIDENT</i>	<i>The Rib Joint Roadhouse in</i>
Name	Title	Establishment

Name	Title	Establishment
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Name	Title	Establishment
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The Better Coalition  
*Advocating a Robust Recycling Effort by Local Governments and  
Businesses that Boosts the Local Economy and Creates Jobs.*

Yes, please add my establishment to the BETTER Coalition opposing EPS "Styrofoam" bans in the City of Dana Point.

Government bans on foam packaging hurt small businesses, are detrimental to the local economy and jeopardize jobs. On behalf of the BETTER Coalition, we support economically sensible alternatives, such as recycling and community education, that address the root causes of litter and make real impacts on our environment.

<i>Tabia Lamphar</i>	<i>Manager</i>	<i>Luxe</i>
Name	Title	Establishment

_____	_____	_____
Name	Title	Establishment

_____	_____	_____
Name	Title	Establishment

_____	_____	_____
Name	Title	Establishment



February 6, 2012

The Honorable Lara Anderson  
Mayor, City of Dana Point  
33282 Golden Lantern  
Dana Point, California 92629

**Subject:        ADDENDUM TO PREVIOUS LETTER CONCERNING POLYSTYRENE FOODSERVICE BAN**

Dear Mayor Anderson:

On December 9, 2011 we at the Plastics Foodservice Packaging Group (PFPG) of the American Chemistry Council (ACC) submitted a letter opposing the proposed ordinance to ban polystyrene food service products. We appreciate city staff including it in your current agenda packet and for the record but would like to offer this addendum to our letter addressing several problematic points made in the staff report. Please consider:

**Staff Report Claim:** "EPS is not biodegradable, thus EPS litter remains indefinitely in the environment..."

**FACT:** The staff report does not acknowledge or offer results from any study discussing the lack of degradability of alternate products, how a switch from one material type to another would provide a net reduction in litter, how much of the alternate products would also enter waterways via storm drains, and what percentage of EPS litter in the waterways is non-food service EPS, fast food wrappers, cigarette butts, and other highly visible forms of litter not being targeted by staff.

Alternate packaging also has an environmental footprint. For example, compostable products do not degrade in the natural environment. Peer reviewed life cycle studies, as recently as 2011, demonstrate the low overall environmental footprint of polystyrene foam foodservice versus alternate products, such as paper-based coated paperboard and PLA-coated bio-based paperboard foodservice. Link to the full study is:

[http://www.americanchemistry.com/s\\_acc/sec\\_news\\_article.asp?CID=206&DID=11794](http://www.americanchemistry.com/s_acc/sec_news_article.asp?CID=206&DID=11794)

**Staff Report Claim:** "Polystyrene is also a potential health concern."

**FACT:** On June 10, 2011 the National Institute of Environmental Health Sciences (NIEHS) identified styrene as one of six new substances that can be 'reasonably anticipated' to be human carcinogens, particularly to workers involved in the production of polystyrene. However, the following comment is taken directly from the NIEHS web site and clearly contradicts the staff claim:

<http://www.niehs.nih.gov/news/media/questions/sva-roc.cfm#s25>

***"My kids eat off polystyrene trays in the cafeteria and eat and drink from polystyrene products. Are they at risk of getting cancer?"***

*Styrene should not be confused with polystyrene (styrofoam). Although styrene, a liquid, is used to make polystyrene, which is a solid plastic, we do not believe that people are at risk from using polystyrene products. The listing in the RoC is specific for styrene and is based on studies of workers exposed to high levels of styrene in the workplace.*

americanchemistry.com®

1121 L Street, Suite 609 | Sacramento, CA | (916) 448-2581

Public Comment

Item # 18

2-7-12



*It is thought that styrene occurs in some foods at very low levels naturally, and if leaching of styrene into foods from polystyrene occurs, the levels of styrene remain very low. Measurements of styrene in foods packaged in polystyrene show that levels in food are still orders of magnitude lower than air levels in the workplace where styrene is used. The RoC listing of styrene was based on high levels of exposure such as that experienced by workers exposed to styrene in an industrial setting and it was not based on the very small amount of styrene that may possibly leach from a Styrofoam cup or plastic containers.*

**The toxicologist who heads the National Toxicology Program was widely quoted in June 2011 news reports: “Let me put your mind at ease right away about Styrofoam” and noted that levels of styrene from polystyrene containers “are hundreds if not thousands of times lower than have occurred in the occupational setting ... In finished products, certainly styrene is not an issue.”**

**Staff Report Claim:** “The Surfrider Foundation, Orange County Chapter, has stated their support for an EPS prohibition because single use polystyrene adds significantly to trash in our waterways; contributes to significant taxpayer spending for litter clean-up; can cause severe human health effects; and because there are safer and more sustainable alternatives.”

#### **FACTS**

- If local jurisdictions are serious about achieving zero waste then any regulations governing “to go” containers should focus on **ALL** takeout food packaging, regardless of material type, not just polystyrene. As drafted, the recommendation will simply be a shift from one type of litter to another and will not achieve zero waste.
- The staff report never provided any empirical evidence an EPS ban would result in litter control and reduce clean-up costs for local governments. They also have not explained how current economies of scale while cleaning up other litter items do not absorb the marginal costs of food service EPS clean-ups.
- It is stated EPS is a major pollutant in our waterways yet no information was provided on the potential impacts of alternate products, how a switch from one material type to another would provide a net reduction in litter, how much of the alternate products would also enter waterways via storm drains, and what percentage of EPS litter in the waterways is food service material.

**Staff Report Claim:** “While EPS is technically ‘recyclable,’ there is, to date, no meaningful recycling of EPS food service containers...”

**FACT:** This was the sentiment prior to 2007, yet Los Angeles is one of more than 40 cities in California that collects polystyrene packaging in its curbside recycling program. You can see this list at <http://www.dart.biz/recycleCA>.

Though we appreciate and support the city of Dana Point’s intent to reduce litter and disposal, we believe the better policy approach would be to establish a clear recycling and composting standard by which ALL material types must meet. As currently drafted, the proposed ordinance fails to recognize that Dana Point does not have a fully developed industrial composting infrastructure for this alternative material. It is important to note that any “compostable” materials that are not handled by an industrial composting facility are unlikely to completely biodegrade.

Thank you for considering our views.

Sincerely,

Ryan Kenny  
Manager, State Affairs  
American Chemistry Council



THE ORANGE COUNTY  
**REGISTER**

## Don't put down polystyrene

Jeff Stier Henry I. Miller  
2012-02-05 00:00:00

The California Assembly could soon vote to make the state the first to forbid any food establishment from using "expanded polystyrene foam," the kind of plastic used in disposable food-service items.

The bill, which passed the Senate and two Assembly committees last year, would likely have the support of Gov. Jerry Brown, who, as mayor of Oakland, pushed a ban on the material at the Oakland Coliseum, where the city's professional baseball and football teams play.

Proponents of the ban allege that expanded polystyrene foam containers – which are sometimes incorrectly called "styrofoam" – are responsible for polluting waterways, killing sea birds and threatening human health. These claims deserve careful examination. Improperly discarded plastic containers (as well as other sorts of consumer waste) do wind up in storm drains and waterways and are, indeed, a blight, but restrictions on consumer products should be narrowly tailored to address specific problems.

If the problem is litter, let's just enforce laws against littering instead of banning a product that, as is evident from its monumental popularity, fills a real need. That was exactly what the Integrated Waste Management Board (now CalRecycle) recommended in a legislatively mandated 2004 report about polystyrene. In a rare display of rationality by a California government agency, the report made several constructive suggestions, including the improvement of anti-litter education and making the act of littering a civil offense (to facilitate the issuance of tickets).

But activists weren't satisfied; they demanded a ban. They concocted a tale about consumers' use of these plastic containers threatening public health. Their only "evidence" was the fact that in June 2011 the National Toxicology Program added styrene, the chemical precursor of polystyrene, to a list of chemicals that are "reasonably anticipated" to be a carcinogen.

But there is less to this than meets the eye. The NTP based its precautionary conclusion on animal studies and from industrial, not consumer exposures. The activists' claims were bogus; in fact, NTP officials were so concerned about the misrepresentation of their report that they sent their associate director, John Bucher, to discuss polystyrene risks with the Associated Press. He concluded, "It's not worth being concerned about."

Although the NTP's listing is of minimal legal significance, the action has given new life to various efforts to malign polystyrene. For example, The Environmental Defense Fund claimed that occupational (rather than environmental) exposure to styrene is "associated" with leukemia and lymphoma. Yet the human studies that EDF used are unreliable and irrelevant because the workers were also exposed to butadiene, a known carcinogen.

It is no wonder, then, that after reviewing styrene studies in 1994 and again in 2002, the International Agency for Research on Cancer has continually refused to categorize it as a "known," or even likely human carcinogen.

Without a good environmental or health justification for a ban, one has to wonder how such an unsound piece of legislation could get so close to becoming law. The answer appears to be that it is backed by a diverse group of California's left-wing activists (both houses of the Legislature are heavily Democratic) who have coalesced to promote an issue that seemingly has little to do with their mission.

Although it is easy to understand why companies like Be Green Packaging LLC are lobbying to support a ban on their competitors – shameless self-interest, or what economists call "rent-seeking" – it is less clear why the American Federation of State, County and Municipal Employees is a supporter. A connection might seem



obscure -- except that the bill would exempt food vendors in school districts and local governments who recycle at least 60 percent of their polystyrene foam. Unionists call this a jobs-creation bill because it would likely require schools to hire new teams of recycling sanitation crews.

Polystyrene's defenders argue that the cups, plates and other products offer superior insulation, strength, and durability at a lower cost than alternatives, and that the ban will cost jobs in California, where some polystyrene is made. But they, too, are overstating the case: California manufacturers also make alternatives to polystyrene.

The real costs and disadvantages of a ban on this safe and useful product will be borne by consumers, who will have to pay more to keep their takeout food clean and warm. These consumers will include school districts, the vast majority of which will fail to achieve the unrealistic 60 percent recycling goal required for exemption. This will divert limited funds from actual education to the purchase of more expensive, polystyrene-free serving trays, plates and cups.

Stier is a senior fellow at the

National Center for Public Policy Research. Miller, a physician and molecular biologist, is a fellow

at the Hoover Institution and

a former FDA official.

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February 6, 2012

Mayor Lara Anderson & City Council Members  
33282 Golden Lantern,  
Dana Point, California 92629

3151 Airway Avenue, Suite F-110  
Costa Mesa, CA 92626  
Phone 714-850-1965  
Fax 714-850-1592  
www.Coastkeeper.org

Dear Mayor Anderson & City Council Members:

Orange County Coastkeeper (Coastkeeper) is an environmental non-profit organization with the mission to protect and preserve the region's marine habitats and watersheds through education, advocacy, restoration, research, and enforcement. As part of our work county wide work to reduce trash in our creeks an ocean we encourage the Dana Point City Council to adopt an ordinance to ban the use of single-use plastic bags, and polystyrene take-out food packaging.

The toll that plastic bags and polystyrene have on our environment along with the \$25 million dollars spent each year to clean up plastic bags and polystyrene foam containers makes this a priority issue that deserves immediate attention. With the state and other local agencies also developing regulations to ban these products the proposed city ordinance is a step in the right direction. There are many readily available, affordable alternatives to these products that generate less waste and have fewer environmental impacts. Of the 50 jurisdictions that have enacted bans on both plastic bags and polystyrene food containers, none have reported that any local businesses have closed or proved an economic hardship for them.

The California coast contributes billions of dollars in revenue for the state through tourism, recreation, and healthy marine life, and Dana Point depends on clean water and beaches to attract the tourists that are such an important part of the city's economy. Also, as a coastal city that also has a major local waterway Dana Point will see the maximum benefit of a ban through cleaner beaches and healthier wildlife populations. Banning the free distribution of plastic bags and polystyrene foam food containers is an appropriate and practical action that will protect our environment and improve the city's beaches. The proposed approach is similar to other jurisdictions around the region and state. Thus, Coastkeeper strongly urges you to support a ban of both banning plastic bags and polystyrene food containers.

Sincerely,

Ray Hiemstra  
Associate Director  
Orange County Coastkeeper  
[ray@coastkeeper.org](mailto:ray@coastkeeper.org)

Agenda Item No. 11 <sup>1</sup>/<sub>12</sub>

2/7/12

**KATHY WARD**

---

**From:** Steven Weinberg <Steven@peddlermanagement.com>  
**Sent:** Monday, February 06, 2012 1:31 PM  
**To:** KATHY WARD  
**Subject:** FW: ban them PLEASE

FYI

Steven H. Weinberg

[www.PeddlerStore.com](http://www.PeddlerStore.com)  
Ph: 949-496-6865  
Cell: 949-637-6490

-----Original Message-----

From: STEVEN WEINBERG [<mailto:sweinberg@DanaPoint.org>]  
Sent: Monday, February 06, 2012 11:23 AM  
To: [steven@peddlermanagement.com](mailto:steven@peddlermanagement.com)  
Subject: FW: ban them PLEASE

---

From: Kathy Cutchins  
Sent: Monday, February 06, 2012 11:22:55 AM (UTC-08:00) Pacific Time (US & Canada)  
To: STEVEN WEINBERG  
Subject: ban them PLEASE

I cannot make the tues meeting due to having three kids with early bedtimes and a hubby who travels during the week BUT I wanted to voice my opinion for the ban on Styrofoam and use of plastic bags. PLEASE make this happen!! The planet is counting on us to finally make the right decisions. Both things cause major issues on the land and the oceans— for the animals, the air and for our health.  
We are counting on our leaders to make the right decisions and it starts at the city level!  
THANK YOU!  
© Kathy Cutchins

Agenda Item No. 11 § 12

2/7/12

**KATHY WARD**

---

**From:** Steve Bender <steve.bender@newportbay.org>  
**Sent:** Monday, February 06, 2012 2:08 PM  
**To:** KATHY WARD  
**Subject:** Plastics Ban!!!! PLEASE SUPPORT!

February 6, 2012

As a business in the Orange County, I support an ordinance on single-use plastic bags, and also support SB568; a state-wide ban on polystyrene take-out food packaging. My business has thrived by being committed to sustainability and using food containers and packaging that is earth-friendly and compostable. By being conscientious of the burden that plastic and polystyrene causes, my business has a positive effect on the environment and community.

As a local taxpayer, I am alarmed to find out that Dana Point, along with other municipalities statewide, spend more than \$25 million dollars each year to clean up plastic bags and polystyrene foam containers from public places, storm drains, and in our waste stream. Local taxpayer dollars are also spent to comply with Storm Water Permit requirements and other standards in communities with "trash-impaired" waterways as defined under the Federal Clean Water Act. The proposed ordinance for a plastic bag ban, and state ban on polystyrene containers would help lower clean-up costs in these tough economic times.

The California coast contributes billions of dollars in revenue for the state through tourism, recreation, and healthy marine life. The reduced use of natural resources for bag production and elimination of foam food ware will increase the beauty of our precious resources.

Of the 50 jurisdictions that have enacted bans on both plastic bags and polystyrene food containers, none have reported that any local businesses have closed or proved an economic hardship for them.

Banning the free distribution of plastic bags and polystyrene foam food containers is widely considered an appropriate and practical legislative action that can protect our environment and save our financial resources. This approach is similar to other jurisdictions around the region and state. Thus, I strongly urge you to move forward on your support of both banning plastic bags and polystyrene food containers.

Thank you for your consideration.

Sincerely,

Agenda Item No. 11 12

2/7/12

## Successes help employers, jobs and the economy

### CAPITOL WATCHDOG

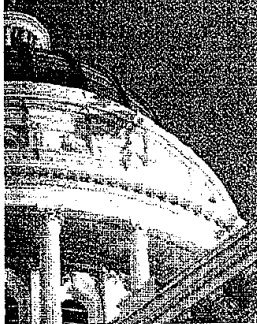
Each year CalChamber tracks more than 3,000 legislative proposals on behalf of member businesses.

### GRASSROOTS ACTION

Comments from employers yield results. See list issue at [www.calchambervotes.com](http://www.calchambervotes.com)

### ABOUT US

CalChamber is the largest, broad-based business advocate, working at the state and federal levels to influence government actions affecting all California business. As a not-for-profit, we leverage our front-line knowledge of laws and regulations to provide affordable and easy-to-use compliance products and services.



## 2011 Major Victories

### Fighting for Jobs, Creating Certainty in an Uncertain Economy

The California Chamber of Commerce is the voice of California business, expert at speaking for pro-job policies and advising employers on how state laws and regulations will affect the workplace. We track more than 3,000 legislative proposals every year, sounding the alarm when a bill will hurt employers and the economy, and working to win support for legislation that will help the jobs climate. Policymakers listen to CalChamber advocates, knowing that we speak for more than 13,000 member businesses employing a fourth of the state's private workforce and reflecting the diversity of the California business community.

Further emphasizing our message are the thousands of individuals who use our Web-based grassroots center, [www.calchambervotes.com](http://www.calchambervotes.com), to make their views known to their elected representatives. Each year, website visitors use the grassroots center to send some 200,000 letters about state and federal issues affecting business operations.

Read on to learn how CalChamber advocacy in 2011 helped employers. See the Advocacy Return on Investment sheet for estimates of employer savings on some of these victories.

### Stopping 29 of 30 'Job Killer' Bills

The skill of CalChamber policy advocates, joining forces with other business groups and pro-jobs legislators, prevented all but five "job killer" bills from passing the Legislature. The Governor vetoed four of the five "job killers." Below is a sampling of "job killers" that won't become law. More information at [www.calchamber.com/jobkillers](http://www.calchamber.com/jobkillers).

- Stopped costly workplace mandates, such as an automatic minimum wage increase (AB 10); changes increasing workers' compensation costs (AB 375, AB 1155); protected classification for employees who use medical marijuana (SB 129); and elimination of secret ballot elections for agricultural workers (SB 104).
- Prevented expansion of employer liability by proposals to add more reasons for taking family and medical leave (AB 59); mandate paid sick leave (AB 400); and elevate bereavement leave to the same level as the right to be free from racial or gender discrimination (AB 325).
- Kept lid on inflated liability costs by advocating veto of a bill undermining judicial discretion (AB 559); securing amendments to legislation that could have led to new shake-down lawsuits against businesses (SB 111); and killing a bill that would have undermined enforcement of arbitration agreements in contracts (AB 1062).
- Blocked new barriers to economic development, such as a requirement for certain contractors to retain the employees of a former contractor (AB 350); a proposal requiring tax credits to sunset (SB 508); a "split roll" property tax (AB 448); and a multitude of hidden and specific tax hike proposals (AB 632, AB 1130, AB 1239, SB 237, SB 535, SB 653, SBX1 23).
- Halted expensive, unnecessary regulatory burdens, including a ban on the use of polystyrene foam food containers (SB 568); and a complex, unworkable health care rate regulation process (AB 52).

### Promoting Expansion of Trade Opportunities for California Goods and Services

Part of broad-based coalitions whose five-year campaigns secured congressional passage of free trade agreements with Korea, Panama and Colombia, estimated to increase U.S. exports by billions of dollars and improve the jobs climate.



#### Helping Control Workers' Compensation Costs

Backed proposals signed into law that lower pharmaceutical costs, lower frictional costs in the workers' compensation system, streamline the process, establish a fee schedule for vocational experts and ensure contractors have coverage (AB 378, AB 335, AB 1426, AB 1168, AB 397).

#### Improving Education

Supported legislation signed into law that will increase high school graduation rates, improve the college and workplace readiness of those graduates and train teachers to better prepare California's students to compete in a global economy by emphasizing education programs that provide students with real-world experience and rigorous coursework to help them engage and excel (SB 611, SB 612).

#### Conforming State to Federal Law on Dependent Health Care

Supported conforming state to federal law regarding treatment of employee premium payments for adult children health care coverage as non-taxable income (AB 36).

#### Preventing Electricity Cost Increases

Stopped eight-year extension of a tax (public goods charge) on electricity ratepayers in the territories of the investor-owned utilities (AB 724, SBX1 28).

#### Preserving Employer Ability to Use Payroll Cards

Secured veto of bill essentially prohibiting financial institutions from charging fees related to the use of payroll cards, thereby imposing a de facto ban on the product and eliminating employers' ability to offer this cost-beneficial option for paying wages to employees (SB 931).

#### Preventing Interference with Employment Contracts

Opposed and secured veto of proposal that would have limited parties' right to contract by characterizing any non-California choice-of-forum clauses and/or choice-of-law clauses in employment contracts as void and unenforceable, unless additional compensation was paid to include such provisions (AB 267).

#### Clarifying Leave Requirements

Sponsored legislation signed into law to clarify the requirements of paid bone marrow and/or organ donation leave, to provide employers with certainty as to how this leave should be implemented (SB 272).

#### Keeping Lid on Mortgage Costs

Stopped a \$20,000 per foreclosure tax that would have been used for purposes unrelated to the foreclosure and increased the costs of homeownership for new borrowers (AB 935).

#### Reforming Regulatory Process

Worked for legislation to reform the regulatory process by requiring an economic analysis of all major regulations at the beginning of the regulatory process, thus providing more transparency and better data on which to base selection of most cost-effective regulatory alternative (SB 617).

#### Protecting Victims of Identity Theft

Backed urgency bill to authorize restitution for expenses for three years to monitor an identity theft victim's credit report and for the costs to repair the victim's credit (SB 208).

#### Protecting California Agriculture

Provided farmers and ranchers an additional tool to help prevent vertebrate pests from destroying valuable California agricultural products by allowing the use of carbon monoxide for vertebrate pest control purposes (SB 634).

#### Promoting Food Safety

Supported urgency legislation clarifying which food facilities are subject to food safety training rules and who can offer certification courses (SB 303).

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