

HOUSE No. 859

The Commonwealth of Massachusetts

PRESENTED BY:

David M. Rogers

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to improve plastic bottles and their recycling.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---------------------------|-----------------------|
| <i>David M. Rogers</i> | <i>24th Middlesex</i> |
| <i>RoseLee Vincent</i> | <i>16th Suffolk</i> |
| <i>Denise Provost</i> | <i>27th Middlesex</i> |
| <i>Natalie M. Higgins</i> | <i>4th Worcester</i> |
| <i>Todd M. Smola</i> | <i>1st Hampden</i> |
| <i>Marjorie C. Decker</i> | <i>25th Middlesex</i> |
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> |
| <i>Jack Patrick Lewis</i> | <i>7th Middlesex</i> |
| <i>Brian W. Murray</i> | <i>10th Worcester</i> |

HOUSE No. 859

By Mr. Rogers of Cambridge, a petition (accompanied by bill, House, No. 859) of David M. Rogers and others relative to the sale of single-use beverage containers and the minimum content standard for plastic beverage containers. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to improve plastic bottles and their recycling.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 21O the
2 following chapter:

3 CHAPTER 21P.

4 IMPROVED PLASTIC BOTTLES AND INCREASED RECYCLING

5 Section 1. Definitions. As used in this chapter, the following words shall have the
6 following meanings unless the context clearly requires otherwise:

7 A. "Beverage", any of the following products prepared for immediate consumption
8 and sold in a single-use container:

9 i. Beer and malt beverages; wine distilled spirit coolers; carbonated water and soda;
10 noncarbonated water; carbonated soft drinks; noncarbonated soft drinks and 'soft' drinks; non-

11 carbonated fruit drinks that contain any percentage of fruit juice and vegetable juice; coffee and
12 tea drinks; carbonated fruit drinks; vegetable and fruit juice, sports drinks, fermented non-
13 alcoholic drinks;

14 B. “Beverage cap”, a cap on any plastic beverage container that is made wholly or in
15 large part from plastic;

16 C. “Plastic beverage container”, an individual, separate bottle, can, jar, carton, or
17 other receptacle, however denominated, in which one liter or less of a beverage is sold, and that
18 is constructed of plastic. “Beverage container” does not include a cup or other similar container
19 open or loosely sealed receptacle;

20 D. “The Department” means the Department of Environmental Protection for the
21 Commonwealth of Massachusetts;

22 E. “Plastic”, an organic or petroleum derivative synthetic or a semisynthetic organic
23 solid that is moldable, and to which additives or other substances may have been added, with the
24 exception of natural polymers that have not been chemically modified;

25 F. “Postconsumer recycled plastic” means plastic that would otherwise be destined
26 for solid waste disposal, having completed its intended end-use and product life cycle;

27 G. “Product manufacturer” means any person, partnership, association, corporation
28 or any other entity that, through its own action or through contract or control, is primarily
29 responsible for causing a product to be produced that is held inside of a rigid plastic packaging
30 container and sold or offered for sale in Massachusetts.

31 i. The Department shall consider the following factors in identifying a product
32 manufacturer:

33 1. The ownership of the brand name of the product in the beverage container;

34 2. Primary control or influence over the design of the product in the beverage
35 container;

36 3. Primary control or influence over the design specifications of the beverage
37 container;

38 ii. Any entity that has a legally recognized corporate relationship (i.e.
39 parent/subsidiary or affiliate relationship) with a product manufacturer shall be allowed to
40 assume the responsibilities of the product manufacturer as they relate to the requirements of this
41 Act.

42 H. “Retailer” means a person who sells a beverage in a beverage container to a
43 consumer;

44 I. “Single use”, means intended for disposal after one use and used for serving or
45 transporting a prepared, ready-to-consume product, and is not intended for multiple trips or
46 rotations by being returned to the producer for refill or reused for the same purpose for which it
47 was conceived.

48 Section 2. Prohibition.

49 A. On and after January 1, 2020, a retailer shall not sell or offer for sale, in the state,
50 a single-use beverage container with a beverage cap, unless the container meets one of the
51 following conditions:

52 i. The beverage cap is tethered to the container in a manner that prevents the
53 separation of the cap from the container when the cap is removed from the container;

54 ii. The beverage cap includes an opening from which the beverage can be consumed
55 while the cap is screwed onto or otherwise contiguously affixed to the container;

56 B. Metal caps or lids with plastic seals shall not be considered to be made from
57 plastic. Glass and metal beverage containers that have caps and lids made from plastic shall not
58 be included in this act;

59 Section 3. Minimum Recycled Content for Plastic Beverage Containers.

60 A. On and after January 1, 2020, a beverage container that is constructed from plastic
61 shall have a minimum content standard of 15 percent postconsumer recycled plastic. The
62 department may adjust the standards based on factors that shall include, but are not limited to, all
63 the following factors:

64 i. Market conditions;

65 ii. Supply;

66 iii. Technology advancements;

67 iv. Environmental considerations;

68 B. A beverage container that is reused and refilled at least five times is exempt from
69 compliance with subdivision (A);

70 C. On and after January 1, 2021, the initial minimum content standard set pursuant to
71 subdivision (A) shall not restrict the department's ability to adjust the minimum content standard

72 for plastic beverage containers, but the department shall not adjust that minimum content
73 standard to less than 15 percent;

74 D. On and after January 1, 2022, the initial minimum content standard for plastic
75 beverage containers set pursuant to subdivision (A) shall be increased to 20 percent. Pursuant to
76 subdivision (C), the department may adjust the minimum content standard for plastic beverage
77 containers, but the department shall not adjust that minimum content standard to less than 20
78 percent;

79 E. On and after January 1, 2024, the initial minimum content standard for plastic
80 beverage containers set pursuant to subdivision (A) shall be increased to 25 percent. Pursuant to
81 subdivision (C), the department may adjust the minimum content standard for plastic beverage
82 containers, but the department shall not adjust that minimum content standard to less than 25
83 percent;

84 F. A product manufacturer which produces plastic beverage containers shall submit
85 certification to the Department, under penalty of perjury, verifying whether it is in compliance
86 with subdivision (a), if requested by the Department.

87 Section 4. Enforcement of Minimum Recycled Content for Plastic Beverage Containers.

88 A. Non-compliance shall be considered a public offense, and the Department may
89 place fines of up to \$100,000 on any product manufacturer found to be below the 15 percent
90 postconsumer recycled content threshold for plastic beverage containers;

91 B. Any product manufacturer who provides false information on a certification of
92 compliance to the Department may be prosecuted for fraud by the state attorney general.