

PUBLIC HEARING

AUGUST 5, 2020

A public hearing of the Council of the County of Kaua'i was called to order by Arryl Kaneshiro, Chair, Committee of the Whole, on Wednesday, August 5, 2020, at 8:32 a.m., at the Council Chambers, 4396 Rice Street, Suite 201, Historic County Building, Līhu'e, and the presence of the following was noted:

Honorable Mason K. Chock (*via remote technology*)  
Honorable Felicia Cowden  
Honorable Luke A. Evslin (*via remote technology*)  
Honorable Ross Kagawa  
Honorable KipuKai Kuali'i  
Honorable Arryl Kaneshiro

Excused: Honorable Arthur Brun\*

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Please note that today's public hearings will be called to order pursuant to Governor Ige's Supplementary Emergency Proclamation dated March 16, 2020, Sixth Supplementary Emergency Proclamation dated April 25, 2020, Seventh Supplementary Emergency Proclamation dated May 5, 2020, Eighth Supplementary Emergency Proclamation dated May 18, 2020, Ninth Supplementary Emergency Proclamation dated June 10, 2020, and Tenth Supplementary Emergency Proclamation dated July 17, 2020.

The Clerk read the notice of the public hearing on the following:

“Bill No. 2775, Draft 2 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 22, KAUAI COUNTY CODE 1987, AS AMENDED, BY ESTABLISHING A NEW ARTICLE RESTRICTING THE USE AND SALE OF POLYSTYRENE FOAM FOOD SERVICE CONTAINERS,”

which was ordered to print by the Council of the County of Kaua'i on July 8, 2020, and published in The Garden Island newspaper on July 17, 2020.

Ms. Fountain-Tanigawa: Chair, we received sixty (60) pieces of written testimony in support of this Bill.

The following communications were received for the record:

1. Anderson, Michael and Lea, dated August 4, 2020

2. Anderson, Victoria (B.E.A.C.H.), dated July 17, 2020
3. Arruda, Kiilani, dated August 3, 2020
4. Austin, Jessica, dated August 3, 2020
5. Bernal, Libirty, dated August 4, 2020
6. Burrell, Pamela, dated July 8, 2020
7. Click, Christopher Drew, dated July 7, 2020
8. Dallain, Charles, dated August 3, 2020
9. Daubert, Thomas, dated July 7, 2020
10. DeLisle, Nicole, dated August 4, 2020
11. Doepke, Kaila, dated August 4, 2020
12. Forster, Lani, dated July 8, 2020
13. Frazer, Suzanne, dated July 8, 2020
14. Furuike, Kelly, dated July 7, 2020
15. Gauba, Mary, dated July 7, 2020
16. Goodson, Joshua, dated August 3, 2020
17. Hsu, June, dated August 4, 2020
18. Hubbard, Evelin, dated August 3, 2020
19. Hughes, Samantha, dated August 4, 2020
20. Ing, Ileana, dated August 3, 2020
21. Jordans, Ruta, dated July 31, 2020
22. Jordans, Ruta, dated July 31, 2020
23. Kahn, Alex, dated August 3, 2020
24. Khan, Mara, dated July 8, 2020
25. Koufis, Ahna, dated August 4, 2020
26. Le Sueur, Alanna, dated July 8, 2020
27. McRoberts, Jonathan, dated August 4, 2020
28. Melead, Donna, dated August 3, 2020
29. Miike, Laulea, dated August 4, 2020
30. Miles, Cambria, dated August 4, 2020
31. Molnar, Haley, dated August 3, 2020
32. Nelson, Rachel, dated August 3, 2020
33. Nice, Malia, dated August 4, 2020
34. Olry, Michele, dated July 7, 2020
35. Olsen, Danna, dated August 4, 2020
36. O'Rourke, Karlie, dated August 4, 2020
37. Osterer, Lorraine, dated July 7, 2020
38. Otsuki, Dean, dated July 8, 2020
39. Owens, Joshua, dated July 8, 2020
40. Pahs, Alicia, dated July 8, 2020
41. Paterson, Mary, dated August 4, 2020
42. Peterson, Gordon, dated August 3, 2020
43. Pollock, Sherry, dated August 4, 2020
44. Price, Sandy, dated August 3, 2020
45. Quesenberry, Jordyn, dated July 8, 2020

46. Ramseth, Aurora, dated August 4, 2020
47. Rasman, Larissa and Gary, dated August 3, 2020
48. Reyonlds, David, dated July 8, 2020
49. Simmons, Valarie, dated August 4, 2020
50. Spade, Linda, dated August 3, 2020
51. Surface, Danielle, dated August 3, 2020
52. Tom, Sarah, dated August 3, 2020
53. Tomlinson, Brianna, dated August 4, 2020
54. Usinger, Travis, dated August 4, 2020
55. Uyeno, Justin, dated August 3, 2020
56. Valhuerdi, Nicole, dated August 4, 2020
57. Vernon, Amanda, dated July 8, 2020
58. White, Jessica, dated July 7, 2020
59. Wiedner, Barbara, dated July 7, 2020
60. Wollin, Pearl and Bontje, Adrian, dated August 4, 2020

This hearing proceeded as follows:

Council Chair Kaneshiro: We have five (5) registered speakers via Zoom. We are going to start with Victoria Anderson. Again, the public hearing rules; typically we give three (3) minutes and three (3) minutes, but this time we will just give you the full six (6) minutes, if you do not use your full six (6) minutes that will be the only time you can speak. You do not need to use the entire six (6) minutes, but it will just be one (1) time to speak on it. If you can see the light on our side, it will turn green when you start, yellow when there is thirty (30) seconds left, and red when the six (6) minutes are up. So with that, Victoria please state your name for the record and you can start.

VICTORIA ANDERSON (*via remote technology*): Aloha Chair Kaneshiro, Vice Chair, and Committee Members. This is regarding Bill No. 2775. I have prepared remarks, so that I can stay within three (3) minutes, but please also refer to my written testimony. I am Victoria Anderson, President of Beach Environmental Awareness Campaign Hawai'i (B.E.A.C.H.). We are an all-volunteer nonprofit that brings awareness and solutions to plastic marine debris. I am testifying in strong support of this Bill, which bans the use and sale of food and drink containers made of polystyrene foam in Kaua'i County. B.E.A.C.H. prefers the first draft of the Bill as it has an earlier start date and does not include the requirement for biodegradable or compostable containers. The second draft contains confusing start dates, requires only compostable alternatives, and includes the widely misused and misunderstood word "biodegradeable." Polystyrene foam is one of the most harmful types plastic. It breaks into small pieces, is easily windblown, and is made with toxic chemicals benzene and styrene, which cause cancer. Benzene and styrene leach from these containers when they come into contact with hot, oily, or acidic foods or drinks. When polystyrene foam gets into the ocean it rapidly breaks into smaller pieces. This makes

it impossible to cleanup. It also means these pieces get eaten by plankton and small fish, and this passes the toxic chemicals all the way through the food chain. To further strengthen this Bill, we would like to see the exemption for egg cartons and meat trays removed and not allow polystyrene bait containers. We have found many of these littered around beaches during cleanups. There is lots of good alternatives to polystyrene containers made from sugarcane, cardboard, and metal. Therefore, we also recommend that the Committee include all the other non-plastic alternatives that do not have a compostability certification to give restaurants and caterers more options. B.E.A.C.H. also encourages people to bring their own containers, whether it is glass, stainless steel, or ceramic. The cost of switching to a compostable container is minimal. On Maui, restaurants passed this small cost on to consumers by charging an additional twenty-five cents (\$0.25). These restaurants found that they made money from this change and the consumers were happy to get a safe food container instead of one containing toxic chemicals. When every county has the same laws, the cost of alternative containers will go down. Polystyrene containers are just plain harmful to the environment. Plastic foam lasts forever. It is made from nonrenewable fossil fuel resources and it contains dangerous toxic chemicals. By contrast, compostable containers are made of renewable plant resources and can be fully composted back into healthy soil. In conclusion, all of the other counties in Hawai'i have now passed laws banning polystyrene foam. Please take similar action to protect the health of Kaua'i's residents, marine life, and the environment. Thank you so much for this opportunity to provide testimony in response to support of this Bill.

Council Chair Kaneshiro: Thank you, Victoria. Next up, we have Dean Otsuki.

DEAN OTSUKI (*via remote technology*): Hi, my name is Dean Otsuki. Aloha Chair Kaneshiro, Vice Chair Kagawa, and Committee Members. I am writing in strong support of Bill No. 2775, which prohibits the use and sale of polystyrene disposable food and drink containers on Kaua'i. Manufacturing polystyrene foam is both harmful to people and the environment. Polystyrene foam containers contain the chemical styrene, which leaches into hot food and drink. Acidic food and drinks also causes styrene to migrate out of the foam and into the food and the drink. The styrene has been linked to cancer, vision and hearing loss, impaired memory and concentration, and nervous system effects. Polystyrene is made from petroleum that contains benzene, which is a carcinogenic. Styrene is another chemical in styrofoam that the National Toxicology Program lists as, "Reasonably anticipated to be a human carcinogen." Workers in the polystyrene plastic industry are known to have higher incidences of cancer and suffer adverse effects from inhaling styrene. There are better, healthier alternatives like compostable containers for polystyrene food containers on the market today that do not have toxic chemicals in them like styrene. Compostable containers are one hundred percent (100%) plant based, so if they do get into the marine environment they do not harm marine life as compostables are

non-toxic. Another alternative to polystyrene foam containers is to bring your own reusable container. Polystyrene foam containers are very light and can easily blow into the ocean where marine life can ingest them. Plastic in the ocean accumulates persistent organic pollutants (POPs), such as DDT, DDE, PCB's, and dioxins on the surface of the plastic up to a million times more than the surrounding sea water making the plastic very toxic. When marine life ingests marine debris, these POPs migrate to the fatty tissues of the animals. These POPs bioaccumulate up the food chain, where the food chain including humans, get the most chemicals. POPs are endocrine disruptors that can interfere with the endocrine or hormone system. Endocrine disruptors can cause cancerous tumors, birth defects, and other developmental disorders. Please pass Bill No. 2775, to help keep our ocean environment clean and protect residents and visitors from the toxic chemicals that come from polystyrene foam. Thank you for your consideration for my testimony.

Council Chair Kaneshiro: Thank you, Dean. Next up, we have Suzanne Frazer.

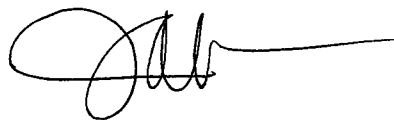
SUZANNE FRAZER (*via remote technology*): Aloha Chair Kaneshiro, Vice Chair Kagawa, and Committee Members. My name is Suzanne Frazer and I am speaking in very strong support of Bill No. 2775, which bans the use and the sale of polystyrene foam food and drink containers in Kaua'i County. I prefer Draft 1 of the Bill with the earlier start date of January 1, 2021. Also, I am not really keen on the word "biodegradable" in Draft 2, because of the misuse of that word. In fact, it has been so misused in a greenwashing way where they actually put one percent (1%) biodegradable content into a plastic thing and the rest is ninety-nine percent (99%) plastic, which means that only one percent (1%) breaks down and the other ninety-nine percent (99%) does not, and yet they have labeled these things biodegradable. Even sometimes one hundred percent (100%) biodegradable on the packaging, which is a lie. The Federal Trade Commission (FTC) has had to warn these companies about that or take them to court. Unfortunately, a lot of companies are still getting away with this and it is irresponsible and the best thing to do to avoid that snafu is just to take out the word "biodegradable" and not use it. California actually banned it in legislation for the whole State, so people cannot sell products with the word biodegradable on it. I would just suggest to avoid any loopholes by taking that one out. Also, in regards to compostable alternatives; there are other alternatives that are non-plastic, but they do not have an ASTM standard such as those made of paper, cardboard, tin foil, and so on. I think allowing food vendors to have a wider choice of alternatives would be helpful in making that transition away from plastic containers. I know my testimony is long, so I am just going to point out a few different things as to why it is really important that we ban polystyrene foam containers. This kind of material, polystyrene, according to one of the top scientists in the world, Doctor Anthony Andrady, he has said that polystyrene foam is the only type of plastic that breaks down faster in sea water than on land, which means that when this polystyrene gets into the ocean, you have an even bigger problem when it

is into smaller pieces, that makes it bioavailable for the base of the food chain to ingest. Meaning that little fish can ingest these polystyrene foam pieces. In fact, we have filmed fish eating styrofoam in the water; little, tiny pieces of it—they cannot eat bigger pieces, they eat the little pieces. Why that is such a problem is that the little fish are what the bigger fish eat, so when people are eating fish, they are actually eating the chemicals that are coming through the food chain from plankton and little fish, all the way up. That is one of the ways that polystyrene foam harms humans, but there are many other ways because this type of container should never have been allowed. I do not know how it has been allowed to be used all these years because it is actually toxic; it contains the chemicals, styrene, and benzene; both carcinogenic. They affect the brain, nervous system, red blood cells, liver, kidney, and so on. Really, it is appalling that sick people in hospitals are eating out of this, and little children in schools, they are eating out of styrofoam. So the sooner the better, this gets banned. Of course the other counties have already taken strong action and banned this material already for food and drinks. What goes on is that when you put hot drinks or hot food into polystyrene foam or even oily or acidic; the heat, the oil, and the acid causes the release of the chemical styrene into the food and drink. Scientists have actually measured the weight of the container or cup before adding hot coffee, then weighed the cup after the drink is taken out, and the cup has lost weight because styrene is leaching out of that cup into the liquid. Unfortunately, I think it is one hundred percent (100%) of humans to have styrene in their bodies, which is terrible and it does affect our health. So for that reason, please ban polystyrene foam containers for all food and drinks, as soon as possible. That would be a great action, which is healthy not only for all the residents, visitors, but also marine life, and environment. Thank you very much for this opportunity to give testimony in strong support of Bill No. 2775.

Council Chair Kaneshiro: Thank you, Suzanne. That is all the testimony we have for today.

There being no further testimony, the public hearing adjourned at 8:46 a.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA  
County Clerk

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\*Beginning with the March 11, 2020 Council Meeting and until further notice, Councilmember Arthur Brun will not be present due to U.S. v. Arthur Brun et al., Cr. No. 20-00024-DKW (United States District Court), and therefore will be noted as excused (i.e., not present).