



SPONSOR: Rep. Phillips

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 2
FOR
HOUSE BILL NO. 111

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO REDUCING THE AUTOMATIC PROVISION OF SINGLE-USE EATING UTENSILS, CONDIMENT PACKETS, AND OTHER ITEMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 WHEREAS, non-biodegradable and non-recyclable materials pose a challenge to any environmentally and
2 financially responsible solid waste management program; and

3 WHEREAS, regulation of food packaging is necessary to encourage a recyclable waste stream and to reduce the
4 volume of solid waste disposed and the economic and environmental costs of waste management; and

5 WHEREAS, New York City, Washington DC, Denver, Chicago, California, Washington State, numerous New
6 Jersey municipalities, and others have passed Skip the Stuff laws to reduce the automatic dispensing of plastic utensils,
7 condiments, and other single use items by food establishments; and

8 WHEREAS, many restaurant takeout and delivery orders are eaten at home or in an office, where reusable utensils
9 are available and preferred; and

10 WHEREAS, the Department of Health and Social Services already regulates food establishments for health and
11 safety measures and conducts routine enforcement inspections.

12 NOW, THEREFORE:

13 Section 1. Amend § 3001Q, Title 16 of the Delaware Code by making deletions as shown by strike through and
14 insertions as shown by underline as follows and by redesignating accordingly:

15 § 3001Q. Definitions [Effective July 1, 2025].

16 For purposes of this chapter:

17 () “Beverage splash stick” means a device primarily intended to be used to keep heat and liquid from
18 escaping a lidded cup.

19 () “Condiment packet” means an individual single-service container, sealed by the manufacturer, containing a
20 sauce or other substance used to enhance the flavor of food, which may include mustard, ketchup, mayonnaise, soy
21 sauce, hot sauce, or salad dressing.

22 () “Eating utensil” means a tool used for eating or drinking, including a knife, fork, spoon, or chopsticks.
23 Eating utensils do not include beverage stirrers or beverage straws.

24 () “Napkin” means a piece of cloth or paper used to wipe a person’s hands or face or to protect garments
25 while eating.

26 () “Single-use food service items” means items that may be provided as is or with packaging for food or
27 beverages that are delivered, picked up, or taken to go from a food establishment, and includes eating utensils, napkins,
28 condiment packets, straws, beverage splash sticks, beverage stirrers, and may include both plastic and non-plastic
29 items. Single-use food service items do not include items used to contain or secure food or beverages that are
30 delivered, picked up, or taken to go from a food establishment, such as cups, boxes, sandwich picks, wrappers, and
31 bags.

32 Section 2. Amend § 3005Q, Title 16 of the Delaware Code by making deletions as shown by strike through and
33 insertions as shown by underline as follows:

34 § 3005Q. Penalties [Effective July 1, 2025].

35 (c)(1) The Secretary, or a person designated by the Secretary, must provide a written warning to a food
36 establishment that violates any provision of this chapter.

37 (2) For a third or subsequent violation of § 3007Q of this chapter, a food establishment is subject to the
38 following civil penalties, which may be in addition to any administrative penalty under subsection (a) of this section:

39 a. \$100 for the third violation.

40 b. \$200 for the fourth violation.

41 c. \$500 for the fifth or any subsequent violation.

42 (3) No food establishment may be subject to a total cumulative penalty under subsection (c)(2) that exceeds
43 \$1,500 per year.

44 Section 3. Amend Chapter 30Q, Title 16 of the Delaware Code by making deletions as shown by strike through
45 and insertions as shown by underline as follows:

46 § 3007Q. Restrictions on providing single-use food service items.

47 (a) For purposes of this section, “food establishment” does not include the following:

48 (1) A nonprofit organization.

49 (2) A school serving any students from pre-kindergarten through 12th grade.

50 (3) An early childhood center.

51 (4) A health care facility.

- 52 (5) A facility operated by the Department of Services for Children, Youth and Their Families.
- 53 (6) A Level IV or Level V Department of Correction facility.
- 54 (b) A food establishment may only provide single-use food service items to a customer if explicitly requested by
55 the customer.
- 56 (c) A food establishment must provide options to allow a customer to request single-use food service items upon
57 submission of an order if such items are offered by the food service establishment fulfilling the order. Such options must be
58 provided for all methods of ordering, including by phone and internet.
- 59 (d) A food establishment or employee of a food establishment may not make inquiry into the reason for a request
60 for single-use food service items.
- 61 (e) A food establishment may maintain a self-service station at which single-use food service items are available
62 without violating this section.
- 63 Section 4. This Act takes effect as follows:
- 64 (1) Sections 1 and 3 of this Act take effect on January 1, 2026.
- 65 (2) Section 2 of this Act takes effect 2 years after enactment.

SYNOPSIS

This Substitute to House Bill No. 111 prohibits food establishments from providing any single-use food service items unless requested by a customer, requires food establishments to provide options to allow the customer to request such items, prohibits food establishments from inquiring into the reason for a request for single-use food service items, and allows food establishments to maintain self-serve stations at which single-use food service items are available.

This Substitute sets forth penalties for third and subsequent violations of this Act, not to exceed a cumulative total of \$1,500 per year. This Substitute exempts, for purposes of this Act, nonprofit organizations, schools, early childhood centers, health care facilities, facilities operated by the Department of Children, Youth, and Their Families, and Level IV and Level V Department of Correction facilities from the definition of “food establishment.” The penalty provisions of this Act are effective 2 years after enactment.

This Substitute includes language to clarify that “single-use food service items” do not include items used to contain or secure food or beverages that are delivered, picked up, or taken to go from a food establishment, such as cups, boxes, sandwich picks, wrappers, and bags. Also for clarity and to address confusion arising out of House Substitute No. 1 to House Bill No. 111, this Substitute does not include an unchanged subsection of existing code that is unaffected by and does not affect the provisions of this Act.