

Ordinance of the Federal Government

Ordinance regulating the nature and marking of certain single-use plastic products

(Single-use plastic marking ordinance – EWKKennzV)*)

of 24 June 2021

On the basis of Section 24 numbers 2, 6 and 7 (b) and (d) in conjunction with Section 67 of the Circular Economy Act (KrWG), of which Section 24 numbers 2, 6 and 7 (b) and (d) was amended by Article 1 number 18 of the Act of 23 October 2020 (Federal Law Gazette I p. 2232), the Federal Government, after consulting the parties concerned and under observance of the rights of the Bundestag, hereby decrees as follows:

Section 1

Scope

This Ordinance regulates the nature of certain single-use plastic beverage containers and the marking of certain single-use plastic products directly on the product or on its packaging. Statutory provisions laying down other requirements on the nature and marking of products shall remain unaffected.

Section 2

Definitions

For this Ordinance, the definitions pursuant to Article 1 of Commission Implementing Regulation (EU) 2020/2151 of 17 December 2020 laying down rules on harmonised marking specifications on single-use plastic products listed in Part D of the Annex to Directive (EU) 2019/904 of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment (OJ L 428 of 18 December 2020, p. 57) and the following supplementary definitions shall apply:

1. single-use plastic product:

a product that is made wholly or partly from plastic and that is not conceived, designed or placed on the market to accomplish, within its life span, multiple trips or rotations by being returned to a producer or distributor for refill, or re-used for the same purpose as that for which it was conceived;

2. plastic:

a material consisting of a polymer in accordance with Article 3 point 5 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive

*) This Ordinance transposes Article 6 (1) (2) and (4), Article 7 (1) and Article 14 of Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155 of 12 June 2019, p. 1).

1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396 of 30 December 2006, p. 1), last amended by Regulation (EU) 2020/507 (OJ L 110 of 8 April 2020, p.1), as amended, to which additives or other substances may have been added, and which can function as a main structural component of final products, with the exception of materials made from natural polymers that have not been chemically modified;

3. placing on the market:

the first making available of a product on the market within the territorial scope of this Ordinance;

4. making available on the market:

any supply of a product for distribution, consumption or use on the market in the course of a commercial activity.

Section 3

Requirements for the nature of certain single-use beverage containers

(2) Beverage containers with a capacity of up to 3.0 litres which are single-use plastic products that have caps or lids made wholly or partly of plastic, may, from 3 July 2024, be placed on the market only if the caps or lids remain attached to the containers during the products' intended use stage. Beverage containers that conform with the harmonised standards within the meaning of Article 6(3) of Directive (EU) 2019/904 shall be presumed to be in conformity with the requirement laid down in the first sentence.

(3) Subsection 1 shall not apply

1. to glass or metal beverage containers that have caps or lids made of plastic,
2. to beverage containers with caps or lids that have plastic seals but are otherwise made of metal and
3. Beverage containers intended and used for liquid food for special medical purposes as defined in point (g) of Article 2 (2) of Regulation (EU) No. 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 (OJ L 181 of 29 June 2013, p. 35), last amended by Regulation (EU) 2017/1091 (OJ L 158 of 21 June 2017, p.5).

Section 4

Marking obligation

(1) The following single-use plastic products may be placed on the market only if their sales and grouped packaging is marked as follows:

1. sanitary towels, especially pads, in accordance with point (1) first sentence and point (3) of Annex I of Implementing Regulation (EU) 2020/2151,
2. tampons and tampon applicators in accordance with point (2) first sentence and point (3) of Annex I of Implementing Regulation (EU) 2020/2151,
3. wet wipes, i.e. pre-wetted personal care and domestic wipes, in accordance with point (1) first sentence and point (2) of Annex II of Implementing Regulation (EU) 2020/2151, and
4. filters intended for use in combination with tobacco products, in accordance with point (1) first sentence and point (2) of Annex III of Implementing Regulation (EU) 2020/2151.

(2) Tobacco products with filters may be placed on the market only if their outside packaging and the unit packet are each marked in accordance with point (1) first sentence and point (2) of Annex III of Implementing Regulation (EU) 2020/2151.

(3) Beverage cups that are single-use plastic products may be placed on the market only if they are marked in accordance with point (1) first sentence and points (3) and (4) of Annex IV of Implementing Regulation (EU) 2020/2151.

Section 5

Regulatory offences

A regulatory offence within the meaning of Section 69 subsection (1) number 8 of the Circular Economy Act shall be deemed to have been committed by anyone who wilfully or negligently places a product on the market in contravention of Section 3 subsection 1 first sentence or Section 4 of this Ordinance.

Section 6

Entry into force

This Ordinance shall enter into force subject to the second sentence on 3 July 2021. If the promulgation is later than 3 July 2021, the Ordinance shall enter into force on the day following promulgation.

The Bundesrat has granted consent.