

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

S. B. No. 210

**Senator Coley
Cosponsor: Senator Eklund**

A BILL

To amend sections 715.013, 3736.01, and 3767.32 and
to enact section 3736.021 of the Revised Code to
authorize a person to use an auxiliary container
for any purpose, to prohibit a municipal
corporation from imposing a tax or fee on
auxiliary containers, and to clarify that the
existing anti-littering law applies to auxiliary
containers.

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

Section 1. That sections 715.013, 3736.01, and 3767.32 be
amended and section 3736.021 of the Revised Code be enacted to
read as follows:

Sec. 715.013. (A) Except as otherwise expressly authorized
by the Revised Code, no municipal corporation shall levy a tax
that is the same as or similar to a tax levied under Chapter
322., 3734., 3769., 4123., 4141., 4301., 4303., 4305., 4307.,
4309., 5707., 5725., 5726., 5727., 5728., 5729., 5731., 5735.,
5736., 5737., 5739., 5741., 5743., 5747., 5749., or 5751. of the
Revised Code.

(B) No municipal corporation may impose any tax, fee, assessment, or other charge on auxiliary containers, on the sale, use, or consumption of such containers, or on the basis of receipts received from the sale of such containers. As used in this division, "auxiliary container" has the same meaning as in section 3736.01 of the Revised Code. 19
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(C) This section does not prohibit a municipal corporation from levying an income tax or withholding tax in accordance with Chapter 718. of the Revised Code, or a tax on any of the following: 25
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(1) Amounts received for admission to any place; 29

(2) The income of an electric company or combined company, as defined in section 5727.01 of the Revised Code; 30
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(3) On and after January 1, 2004, the income of a telephone company, as defined in section 5727.01 of the Revised Code. 32
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Sec. 3736.01. As used in this chapter: 35

(A) "Litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, or anything else of an unsightly or unsanitary nature thrown, dropped, discarded, placed, or deposited by a person on public property, on private property not owned by the person, or in or on waters of the state unless one of the following applies: 36
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(1) The person has been directed to do so by a public official as part of a litter collection drive. 43
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(2) The person has thrown, dropped, discarded, placed, or deposited the material in a receptacle in a manner that 45
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prevented its being carried away by the elements.	47
(3) The person has been issued a permit or license	48
covering the material pursuant to Chapter 3734. or 6111. of the	49
Revised Code.	50
(B) "Recycling" means the process of collecting, sorting,	51
cleansing, treating, and reconstituting waste or other discarded	52
materials for the purpose of recovering and reusing the	53
materials.	54
(C) "Agency of the state" includes, but is not limited to,	55
an agency subject to Chapter 119. of the Revised Code and a	56
state university or college as defined in section 3345.12 of the	57
Revised Code.	58
(D) "Source reduction" means activities that decrease the	59
initial production of waste materials at their point of origin.	60
(E) "Enterprise" means a business with its principal place	61
of business in this state and that proposes to engage in	62
research and development or recycling in this state.	63
(F) "Research and development" means inquiry,	64
experimentation, or demonstration to advance basic scientific or	65
technical knowledge or the application, adaptation, or use of	66
existing or newly discovered scientific or technical knowledge	67
regarding recycling, source reduction, or litter prevention.	68
(G) "Recyclables" means waste materials that are	69
collected, separated, or processed and used as raw materials or	70
products.	71
(H) "Recycling market development" means activities that	72
stimulate the demand for recycled products, provide for a	73
consistent supply of recyclables to meet the needs of recycling	74

industries, or both. 75

(I) "Solid waste management districts" means solid waste 76
management districts established under Chapter 343. of the 77
Revised Code. 78

(J) "Synthetic rubber" means produced or extended rubber 79
and products made from a synthetic rubber base material 80
originating from petrochemical feedstocks, including scrap 81
tires, tire molds, automobile engine belts, brake pads and 82
hoses, weather stripping, fittings, electrical insulation, and 83
other molded objects and parts. 84

(K) "Auxiliary container" means a bag, can, cup, food 85
service item, container, keg, bottle, or other packaging to 86
which all of the following apply: 87

(1) It is designed to be either single use or reusable. 88

(2) It is made of cloth, paper, plastic, foamed or 89
expanded plastic, cardboard, corrugated material, aluminum, 90
metal, glass, postconsumer recycled material, or similar 91
materials or substances, including coated, laminated, or 92
multilayered substrates. 93

(3) It is designed for consuming, transporting, or 94
protecting merchandise, food, or beverages from or at a food 95
service operation, retail food establishment, grocery, or any 96
other type of retail, manufacturing, or distribution 97
establishment. 98

Sec. 3736.021. A person may use an auxiliary container for 99
purposes of commerce or otherwise. 100

Nothing in this section shall be construed to prohibit or 101
limit the authority of any county, municipal, or solid waste 102

district to implement a voluntary recycling program. 103

Sec. 3767.32. (A) No person, regardless of intent, shall 104
deposit litter or cause litter to be deposited on any public 105
property, on private property not owned by the person, or in or 106
on waters of the state unless one of the following applies: 107

(1) The person is directed to do so by a public official 108
as part of a litter collection drive; 109

(2) Except as provided in division (B) of this section, 110
the person deposits the litter in a litter receptacle in a 111
manner that prevents its being carried away by the elements; 112

(3) The person is issued a permit or license covering the 113
litter pursuant to Chapter 3734. or 6111. of the Revised Code. 114

(B) No person, without privilege to do so, shall knowingly 115
deposit litter, or cause it to be deposited, in a litter 116
receptacle located on any public property or on any private 117
property not owned by the person unless one of the following 118
applies: 119

(1) The litter was generated or located on the property on 120
which the litter receptacle is located; 121

(2) The person is directed to do so by a public official 122
as part of a litter collection drive; 123

(3) The person is directed to do so by a person whom the 124
person reasonably believes to have the privilege to use the 125
litter receptacle; 126

(4) The litter consists of any of the following: 127

(a) The contents of a litter bag or container of a type 128
and size customarily carried and used in a motor vehicle; 129

(b) The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle;	130 131
(c) Beverage containers and food sacks, wrappings, and containers of a type and in an amount that reasonably may be expected to be generated during routine commuting or business or recreational travel by a motor vehicle;	132 133 134 135
(d) Beverage containers, food sacks, wrappings, containers, and other materials of a type and in an amount that reasonably may be expected to be generated during a routine day by a person and deposited in a litter receptacle by a casual passerby.	136 137 138 139 140
(C) (1) As used in division (B) (1) of this section, "public property" includes any private property open to the public for the conduct of business, the provision of a service, or upon the payment of a fee, but does not include any private property to which the public otherwise does not have a right of access.	141 142 143 144 145
(2) As used in division (B) (4) of this section, "casual passerby" means a person who does not have depositing litter in a litter receptacle as the person's primary reason for traveling to or by the property on which the litter receptacle is located.	146 147 148 149
(D) As used in this section:	150
(1) "Litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, <u>auxiliary containers</u> , or anything else of an unsightly or unsanitary nature.	151 152 153 154
(2) "Deposit" means to throw, drop, discard, or place.	155
(3) "Litter receptacle" means a dumpster, trash can, trash bin, garbage can, or similar container in which litter is	156 157

deposited for removal.	158
<u>(4) "Auxiliary container" has the same meaning as in</u>	159
<u>section 3736.01 of the Revised Code.</u>	160
(E) This section may be enforced by any sheriff, deputy	161
sheriff, police officer of a municipal corporation, police	162
constable or officer of a township, or township or joint police	163
district, wildlife officer designated under section 1531.13 of	164
the Revised Code, natural resources officer appointed under	165
section 1501.24 of the Revised Code, forest-fire investigator	166
appointed under section 1503.09 of the Revised Code, conservancy	167
district police officer, inspector of nuisances of a county, or	168
any other law enforcement officer within the law enforcement	169
officer's jurisdiction.	170
Section 2. That existing sections 715.013, 3736.01, and	171
3767.32 of the Revised Code are hereby repealed.	172