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H. B. No. 625

Representatives Lang, Lipps

**Cosponsors: Representatives Carfagna, Riedel, Roegner, Thompson, Antani,
Dean, McClain, Merrin, Seitz**

A BILL

To amend sections 504.04, 715.013, 3736.01, and 1
3767.32 and to enact sections 301.30 and 2
3736.021 of the Revised Code to authorize a 3
person to use an auxiliary container for any 4
purpose, to prohibit a municipal corporation, 5
charter county, or limited home rule township 6
from imposing a tax or fee on auxiliary 7
containers, and to clarify that the existing 8
anti-littering law applies to auxiliary 9
containers. 10

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

Section 1. That sections 504.04, 715.013, 3736.01, and 11
3767.32 be amended and sections 301.30 and 3736.021 of the 12
Revised Code be enacted to read as follows: 13

Sec. 301.30. No county that has adopted a charter under 14
Section 3 of Article X, Ohio Constitution, may impose a fee, 15
tax, assessment, or other charge on auxiliary containers, on the 16
sales, use, or consumption of such containers, except as 17
authorized in Chapters 5739. and 5741. of the Revised Code, or 18

on the basis of receipts received from the sale of such 19
containers. As used in this section, "auxiliary container" has 20
the same meaning as in section 3736.01 of the Revised Code. 21

Sec. 504.04. (A) A township that adopts a limited home 22
rule government may do all of the following by resolution, 23
provided that any of these resolutions, other than a resolution 24
to supply water or sewer services in accordance with sections 25
504.18 to 504.20 of the Revised Code, may be enforced only by 26
the imposition of civil fines as authorized in this chapter: 27

(1) Exercise all powers of local self-government within 28
the unincorporated area of the township, other than powers that 29
are in conflict with general laws, except that the township 30
shall comply with the requirements and prohibitions of this 31
chapter, and shall enact no taxes other than those authorized by 32
general law, and except that no resolution adopted pursuant to 33
this chapter shall encroach upon the powers, duties, and 34
privileges of elected township officers or change, alter, 35
combine, eliminate, or otherwise modify the form or structure of 36
the township government unless the change is required or 37
permitted by this chapter; 38

(2) Adopt and enforce within the unincorporated area of 39
the township local police, sanitary, and other similar 40
regulations that are not in conflict with general laws or 41
otherwise prohibited by division (B) of this section; 42

(3) Supply water and sewer services to users within the 43
unincorporated area of the township in accordance with sections 44
504.18 to 504.20 of the Revised Code; 45

(4) Adopt and enforce within the unincorporated area of 46
the township any resolution of a type described in section 47

503.52 or 503.60 of the Revised Code.	48
(B) No resolution adopted pursuant to this chapter shall do any of the following:	49 50
(1) Create a criminal offense or impose criminal penalties, except as authorized by division (A) of this section or by section 503.52 of the Revised Code;	51 52 53
(2) Impose civil fines other than as authorized by this chapter;	54 55
(3) Establish or revise subdivision regulations, road construction standards, urban sediment rules, or storm water and drainage regulations, except as provided in section 504.21 of the Revised Code;	56 57 58 59
(4) Establish or revise building standards, building codes, and other standard codes except as provided in section 504.13 of the Revised Code;	60 61 62
(5) Increase, decrease, or otherwise alter the powers or duties of a township under any other chapter of the Revised Code pertaining to agriculture or the conservation or development of natural resources;	63 64 65 66
(6) Establish regulations affecting hunting, trapping, fishing, or the possession, use, or sale of firearms;	67 68
(7) Establish or revise water or sewer regulations, except in accordance with section 504.18, 504.19, or 504.21 of the Revised Code;	69 70 71
<u>(8) Impose a 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</u>	72 73 74 75

the same meaning as in section 3736.01 of the Revised Code. 76

Nothing in this chapter shall be construed as affecting 77
the powers of counties with regard to the subjects listed in 78
divisions (B) (3) to (5) of this section. 79

(C) Under a limited home rule government, all officers 80
shall have the qualifications, and be nominated, elected, or 81
appointed, as provided in Chapter 505. of the Revised Code, 82
except that the board of township trustees shall appoint a full- 83
time or part-time law director pursuant to section 504.15 of the 84
Revised Code, and except that a five-member board of township 85
trustees approved for the township before September 26, 2003, 86
shall continue to serve as the legislative authority with 87
successive members serving for four-year terms of office until a 88
termination of a limited home rule government under section 89
504.03 of the Revised Code. 90

(D) In case of conflict between resolutions enacted by a 91
board of township trustees and municipal ordinances or 92
resolutions, the ordinance or resolution enacted by the 93
municipal corporation prevails. In case of conflict between 94
resolutions enacted by a board of township trustees and any 95
county resolution, the resolution enacted by the board of 96
township trustees prevails. 97

Sec. 715.013. (A) Except as otherwise expressly authorized 98
by the Revised Code, no municipal corporation shall levy a tax 99
that is the same as or similar to a tax levied under Chapter 100
322., 3734., 3769., 4123., 4141., 4301., 4303., 4305., 4307., 101
4309., 5707., 5725., 5726., 5727., 5728., 5729., 5731., 5735., 102
5736., 5737., 5739., 5741., 5743., 5747., 5749., or 5751. of the 103
Revised Code. 104

(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. 105
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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: 111
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(1) Amounts received for admission to any place; 115

(2) The income of an electric company or combined company, as defined in section 5727.01 of the Revised Code; 116
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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. 118
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Sec. 3736.01. As used in this chapter: 121

(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: 122
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(1) The person has been directed to do so by a public official as part of a litter collection drive. 129
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(2) The person has thrown, dropped, discarded, placed, or deposited the material in a receptacle in a manner that 131
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prevented its being carried away by the elements.	133
(3) The person has been issued a permit or license	134
covering the material pursuant to Chapter 3734. or 6111. of the	135
Revised Code.	136
(B) "Recycling" means the process of collecting, sorting,	137
cleansing, treating, and reconstituting waste or other discarded	138
materials for the purpose of recovering and reusing the	139
materials.	140
(C) "Agency of the state" includes, but is not limited to,	141
an agency subject to Chapter 119. of the Revised Code and a	142
state university or college as defined in section 3345.12 of the	143
Revised Code.	144
(D) "Source reduction" means activities that decrease the	145
initial production of waste materials at their point of origin.	146
(E) "Enterprise" means a business with its principal place	147
of business in this state and that proposes to engage in	148
research and development or recycling in this state.	149
(F) "Research and development" means inquiry,	150
experimentation, or demonstration to advance basic scientific or	151
technical knowledge or the application, adaptation, or use of	152
existing or newly discovered scientific or technical knowledge	153
regarding recycling, source reduction, or litter prevention.	154
(G) "Recyclables" means waste materials that are	155
collected, separated, or processed and used as raw materials or	156
products.	157
(H) "Recycling market development" means activities that	158
stimulate the demand for recycled products, provide for a	159
consistent supply of recyclables to meet the needs of recycling	160

industries, or both. 161

(I) "Solid waste management districts" means solid waste 162
management districts established under Chapter 343. of the 163
Revised Code. 164

(J) "Synthetic rubber" means produced or extended rubber 165
and products made from a synthetic rubber base material 166
originating from petrochemical feedstocks, including scrap 167
tires, tire molds, automobile engine belts, brake pads and 168
hoses, weather stripping, fittings, electrical insulation, and 169
other molded objects and parts. 170

(K) "Auxiliary container" means a bag, can, cup, food 171
service item, container, keg, bottle, or other packaging to 172
which all of the following apply: 173

(1) It is designed to be either single use or reusable. 174

(2) It is made of cloth, paper, plastic, foamed or 175
expanded plastic, cardboard, corrugated material, aluminum, 176
metal, glass, postconsumer recycled material, or similar 177
materials or substances, including coated, laminated, or 178
multilayered substrates. 179

(3) It is designed for consuming, transporting, or 180
protecting merchandise, food, or beverages from or at a food 181
service operation, retail food establishment, grocery, or any 182
other type of retail, manufacturing, or distribution 183
establishment. 184

Sec. 3736.021. A person may use an auxiliary container for 185
purposes of commerce or otherwise. 186

Nothing in this section shall be construed to prohibit or 187
limit the authority of any county, municipal corporation, or 188

solid waste management district to implement a voluntary 189
recycling program. 190

Sec. 3767.32. (A) No person, regardless of intent, shall 191
deposit litter or cause litter to be deposited on any public 192
property, on private property not owned by the person, or in or 193
on waters of the state unless one of the following applies: 194

(1) The person is directed to do so by a public official 195
as part of a litter collection drive; 196

(2) Except as provided in division (B) of this section, 197
the person deposits the litter in a litter receptacle in a 198
manner that prevents its being carried away by the elements; 199

(3) The person is issued a permit or license covering the 200
litter pursuant to Chapter 3734. or 6111. of the Revised Code. 201

(B) No person, without privilege to do so, shall knowingly 202
deposit litter, or cause it to be deposited, in a litter 203
receptacle located on any public property or on any private 204
property not owned by the person unless one of the following 205
applies: 206

(1) The litter was generated or located on the property on 207
which the litter receptacle is located; 208

(2) The person is directed to do so by a public official 209
as part of a litter collection drive; 210

(3) The person is directed to do so by a person whom the 211
person reasonably believes to have the privilege to use the 212
litter receptacle; 213

(4) The litter consists of any of the following: 214

(a) The contents of a litter bag or container of a type 215

and size customarily carried and used in a motor vehicle;	216
(b) The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle;	217 218
(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;	219 220 221 222
(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.	223 224 225 226 227
(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.	228 229 230 231 232
(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.	233 234 235 236
(D) As used in this section:	237
(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.	238 239 240 241
(2) "Deposit" means to throw, drop, discard, or place.	242
(3) "Litter receptacle" means a dumpster, trash can, trash	243

bin, garbage can, or similar container in which litter is	244
deposited for removal.	245
<u>(4) "Auxiliary container" has the same meaning as in</u>	246
<u>section 3736.01 of the Revised Code.</u>	247
(E) This section may be enforced by any sheriff, deputy	248
sheriff, police officer of a municipal corporation, police	249
constable or officer of a township, or township or joint police	250
district, wildlife officer designated under section 1531.13 of	251
the Revised Code, natural resources officer appointed under	252
section 1501.24 of the Revised Code, forest-fire investigator	253
appointed under section 1503.09 of the Revised Code, conservancy	254
district police officer, inspector of nuisances of a county, or	255
any other law enforcement officer within the law enforcement	256
officer's jurisdiction.	257
Section 2. That existing sections 504.04, 715.013,	258
3736.01, and 3767.32 of the Revised Code are hereby repealed.	259