



May 19, 2020

Transmitted via electronic mail

RE: Oppose HB 242

Dear Chair Manning, Vice Chair Brenner, Ranking Minority Member Maharath and Members of the Senate Local Government, Public Safety and Veterans Affairs Committee:

Thank you for the opportunity to comment on House Bill 242. Please accept these comments on behalf of the Surfrider Foundation ("Surfrider"), an environmental nonprofit dedicated to the protection and enjoyment of our coasts. Founded in 1984, the Surfrider Foundation now maintains more than one million supporters and members, with more than 170 volunteer-led chapters and clubs in the U.S., including the Surfrider Foundation Northern Ohio Chapter based in greater Cleveland. Our Northern Ohio Chapter is concerned about beaches and nearshore waters in Lake Erie and the beneficial uses they support.

As proposed, this bill would prohibit all local governments from exercising home rule authority to regulate through fees or taxes commonly littered and wasteful single-use items such as carryout bags, bottles, cans, cups, foam takeout containers, and straws. This bill also "authorizes" the use of auxiliary containers by consumers, which seemingly would also prohibit or seek to deter local governments from enacting bans on auxiliary containers.

In December 2019, Surfrider submitted testimony to this committee on the Senate companion of this bill. **Forty different individuals and organizations from around Ohio submitted written testimony in opposition to the bill** (SB 222 – Rulli), citing concerns with unlawful limitation of home rule authority, hampering of efforts to rein in solid waste management, and negative impacts to the environment, human health, and Ohio communities. These concerns have not gone away, and in some ways have become even greater with the fallout from the COVID-19 pandemic, which has resulted in increased use of single-use plastic bags and takeout containers over the past couple months.

Cleanliness and protection of public health are paramount concerns, as they should be, but single-use auxiliary containers are not necessarily any better at advancing these objectives than reusable alternatives.¹ It is not prudent for progress toward more sustainable waste reduction practices, and away from wasteful practices, to be subverted for only theoretical benefit.

This pandemic will not last for centuries, but the waste generated by many single-use auxiliary containers—specifically those made of plastic and foam—and the impacts of this waste will, indeed, last for centuries. With that in mind, our governments need to continue to have available to them a wide variety of tools, including legislation, to curb the negative impacts of single-use plastics and other auxiliary containers. Being close to their communities, local elected government officials are well-positioned to determine *if* and *when* legislative tools like container bans or fees might best serve their communities. If such legislative measures are not a good fit for their communities or the challenges their communities face, local governments can opt **not** to advance such policies; indeed, although many governments have advanced such legislation, many others have not. But retaining the authority to do so is important.

Prohibiting local governments from enacting ordinances to curb the distribution and use of auxiliary containers ties their hands from being able to meaningfully address the litter of such items, especially considering that the state proposes no such uniform action to further abate litter and waste generated by such containers.

In the absence of leadership by the state on this issue, some local governments in Ohio are exercising their legal authority to take action to address plastic pollution. Cuyahoga County, Ashtabula, Orange Village, and the City of Bexley have all passed ordinances aimed at reducing waste from single-use plastic items that fall under this bill’s definition of “auxiliary containers” in the past year. **If the state wants regulatory consistency, it will need to lead action, not ignore the needs of its local governments and stomp out their authority to act.**

Surfrider concurs with a number of bill *proponents* that it makes sense for there to be state-level regulatory consistency, and to that end Surfrider would encourage the state to consider a state-level fee or ban/fee hybrid approach to regulating some of the most notoriously-littered auxiliary containers. Kristin Mullins, President / CEO of the Ohio Grocers Association, indicated that the Association would support a statewide plastic

¹ <https://www.cleveland.com/news/2020/05/are-reusable-shopping-bags-safe-during-coronavirus-pandemic-experts-say-threat-is-theoretical.html>

ban or regulation, depending on the bill language.² In California, the California Grocers Association actively supported the state's plastic bag ban, and helped to shape the bill so that it worked for grocers. However, there is currently no such proposal at the state level here in Ohio, so it is important to protect the liberty and authority of local governments to determine the best way to reduce and prevent problem litter in their communities.

For these reasons, Surfrider opposes House Bill 242, and furthermore opposes efforts by the state to overreach and prevent litter abatement efforts by local government, and respectfully asks that committee members vote no on the bill.

As an additional but important note, I feel compelled to respectfully suggest that taking committee action on a bill unrelated to the pandemic, without more than several hours notice in advance of the testimony deadline, would be a disservice to Ohioans, who deserve meaningful opportunities to engage in the legislative process. Many Ohioans have been greatly impacted by the pandemic and are navigating serious challenges with health, employment, business operation, and childcare, amongst other issues. To address controversial and non-essential legislation during this time, and to do so with short notice of public participation opportunity, benefits neither this committee nor the citizens of Ohio. I trust that the committee desires to fully engage committee members and members of the public on business matters of the committee, and as such I am hopeful that the committee will extend further hearing and testimony opportunities on this bill. Thank you for your consideration.

Sincerely,



Sarah Damron
Southeast, Texas, & Great Lakes Regional Manager
on behalf of
Surfrider Foundation Northern Ohio Chapter

² Fisher, Ann (Host). (2019, November 26.) Plastic Bag Bans [Radio program]. In Marylee Williams (Producer), *All Sides with Ann Fisher*. Columbus, OH: WOSU. At 47:38.
<https://radio.wosu.org/post/plastic-bag-bans-0>