

As Passed by the Senate

133rd General Assembly

Regular Session

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Sub. H. B. No. 242

Representatives Lang, Jones

Cosponsors: Representatives Lipps, Carfagna, Romanchuk, Riedel, Hood, Seitz, Antani, Cross, Manchester, Wiggam, Becker, Smith, R., Smith, T., DeVitis, Fraizer, Merrin, Stoltzfus, Wilkin

Senators Brenner, Schaffer, Hoagland, Blessing, Burke, Eklund, Gavarone, Johnson, Rulli

A BILL

To amend sections 504.04, 715.013, and 3767.32 and 1
to enact section 301.30 of the Revised Code to 2
specify the authority to use an auxiliary 3
container, to temporarily prohibit the 4
imposition of a tax or fee on those containers, 5
and to apply existing anti-littering law to 6
those containers. 7

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

Section 1. That sections 504.04, 715.013, and 3767.32 be 8
amended and section 301.30 of the Revised Code be enacted to 9
read as follows: 10

Sec. 301.30. For twelve months after the effective date of 11
the enactment of this section by H.B. 242 of the 133rd general 12
assembly, no county that has adopted a charter under Section 3 13
of Article X, Ohio Constitution, may impose a fee, tax, 14
assessment, or other charge on auxiliary containers, on the 15

sales, use, or consumption of such containers, except as 16
authorized in Chapters 5739. and 5741. of the Revised Code, or 17
on the basis of receipts received from the sale of such 18
containers. As used in this section, "auxiliary container" has 19
the same meaning as in section 3767.32 of the Revised Code. 20

Sec. 504.04. (A) A township that adopts a limited home 21
rule government may do all of the following by resolution, 22
provided that any of these resolutions, other than a resolution 23
to supply water or sewer services in accordance with sections 24
504.18 to 504.20 of the Revised Code, may be enforced only by 25
the imposition of civil fines as authorized in this chapter: 26

(1) Exercise all powers of local self-government within 27
the unincorporated area of the township, other than powers that 28
are in conflict with general laws, except that the township 29
shall comply with the requirements and prohibitions of this 30
chapter, and shall enact no taxes other than those authorized by 31
general law, and except that no resolution adopted pursuant to 32
this chapter shall encroach upon the powers, duties, and 33
privileges of elected township officers or change, alter, 34
combine, eliminate, or otherwise modify the form or structure of 35
the township government unless the change is required or 36
permitted by this chapter; 37

(2) Adopt and enforce within the unincorporated area of 38
the township local police, sanitary, and other similar 39
regulations that are not in conflict with general laws or 40
otherwise prohibited by division (B) of this section; 41

(3) Supply water and sewer services to users within the 42
unincorporated area of the township in accordance with sections 43
504.18 to 504.20 of the Revised Code; 44

(4) Adopt and enforce within the unincorporated area of 45
the township any resolution of a type described in section 46
503.52 or 503.60 of the Revised Code. 47

(B) No resolution adopted pursuant to this chapter shall 48
do any of the following: 49

(1) Create a criminal offense or impose criminal 50
penalties, except as authorized by division (A) of this section 51
or by section 503.52 of the Revised Code; 52

(2) Impose civil fines other than as authorized by this 53
chapter; 54

(3) Establish or revise subdivision regulations, road 55
construction standards, urban sediment rules, or storm water and 56
drainage regulations, except as provided in section 504.21 of 57
the Revised Code; 58

(4) Establish or revise building standards, building 59
codes, and other standard codes except as provided in section 60
504.13 of the Revised Code; 61

(5) Increase, decrease, or otherwise alter the powers or 62
duties of a township under any other chapter of the Revised Code 63
pertaining to agriculture or the conservation or development of 64
natural resources; 65

(6) Establish regulations affecting hunting, trapping, 66
fishing, or the possession, use, or sale of firearms; 67

(7) Establish or revise water or sewer regulations, except 68
in accordance with section 504.18, 504.19, or 504.21 of the 69
Revised Code; 70

(8) For twelve months after the effective date of the 71
amendment of this section by H.B. 242 of the 133rd general 72

assembly, impose a fee, assessment, or other charge on auxiliary 73
containers, on the sale, use, or consumption of such containers, 74
or on the basis of receipts received from the sale of such 75
containers. As used in this division, "auxiliary container" has 76
the same meaning as in section 3767.32 of the Revised Code. 77

Nothing in this chapter shall be construed as affecting 78
the powers of counties with regard to the subjects listed in 79
divisions (B) (3) to (5) of this section. 80

(C) Under a limited home rule government, all officers 81
shall have the qualifications, and be nominated, elected, or 82
appointed, as provided in Chapter 505. of the Revised Code, 83
except that the board of township trustees shall appoint a full- 84
time or part-time law director pursuant to section 504.15 of the 85
Revised Code, and except that a five-member board of township 86
trustees approved for the township before September 26, 2003, 87
shall continue to serve as the legislative authority with 88
successive members serving for four-year terms of office until a 89
termination of a limited home rule government under section 90
504.03 of the Revised Code. 91

(D) In case of conflict between resolutions enacted by a 92
board of township trustees and municipal ordinances or 93
resolutions, the ordinance or resolution enacted by the 94
municipal corporation prevails. In case of conflict between 95
resolutions enacted by a board of township trustees and any 96
county resolution, the resolution enacted by the board of 97
township trustees prevails. 98

Sec. 715.013. (A) Except as otherwise expressly authorized 99
by the Revised Code, no municipal corporation shall levy a tax 100
that is the same as or similar to a tax levied under Chapter 101
322., 3734., 3769., 4123., 4141., 4301., 4303., 4305., 4307., 102

4309., 5707., 5725., 5726., 5727., 5728., 5729., 5731., 5735., 103
5736., 5737., 5739., 5741., 5743., 5747., 5749., or 5751. of the 104
Revised Code. 105

(B) For twelve months after the effective date of the 106
amendment of this section by H.B. 242 of the 133rd general 107
assembly, no municipal corporation may impose any tax, fee, 108
assessment, or other charge on auxiliary containers, on the 109
sale, use, or consumption of such containers, or on the basis of 110
receipts received from the sale of such containers. As used in 111
this division, "auxiliary container" has the same meaning as in 112
section 3767.32 of the Revised Code. 113

(C) This section does not prohibit a municipal corporation 114
from levying an income tax or withholding tax in accordance with 115
Chapter 718. of the Revised Code, or a tax on any of the 116
following: 117

(1) Amounts received for admission to any place; 118

(2) The income of an electric company or combined company, 119
as defined in section 5727.01 of the Revised Code; 120

(3) On and after January 1, 2004, the income of a 121
telephone company, as defined in section 5727.01 of the Revised 122
Code. 123

Sec. 3767.32. (A) No person, regardless of intent, shall 124
deposit litter or cause litter to be deposited on any public 125
property, on private property not owned by the person, or in or 126
on waters of the state unless one of the following applies: 127

(1) The person is directed to do so by a public official 128
as part of a litter collection drive; 129

(2) Except as provided in division (B) of this section, 130

the person deposits the litter in a litter receptacle in a 131
manner that prevents its being carried away by the elements; 132

(3) The person is issued a permit or license covering the 133
litter pursuant to Chapter 3734. or 6111. of the Revised Code. 134

(B) No person, without privilege to do so, shall knowingly 135
deposit litter, or cause it to be deposited, in a litter 136
receptacle located on any public property or on any private 137
property not owned by the person unless one of the following 138
applies: 139

(1) The litter was generated or located on the property on 140
which the litter receptacle is located; 141

(2) The person is directed to do so by a public official 142
as part of a litter collection drive; 143

(3) The person is directed to do so by a person whom the 144
person reasonably believes to have the privilege to use the 145
litter receptacle; 146

(4) The litter consists of any of the following: 147

(a) The contents of a litter bag or container of a type 148
and size customarily carried and used in a motor vehicle; 149

(b) The contents of an ash tray of a type customarily 150
installed or carried and used in a motor vehicle; 151

(c) Beverage containers and food sacks, wrappings, and 152
containers of a type and in an amount that reasonably may be 153
expected to be generated during routine commuting or business or 154
recreational travel by a motor vehicle; 155

(d) Beverage containers, food sacks, wrappings, 156
containers, and other materials of a type and in an amount that 157

reasonably may be expected to be generated during a routine day 158
by a person and deposited in a litter receptacle by a casual 159
passerby. 160

(C) (1) As used in division (B) (1) of this section, "public 161
property" includes any private property open to the public for 162
the conduct of business, the provision of a service, or upon the 163
payment of a fee, but does not include any private property to 164
which the public otherwise does not have a right of access. 165

(2) As used in division (B) (4) of this section, "casual 166
passerby" means a person who does not have depositing litter in 167
a litter receptacle as the person's primary reason for traveling 168
to or by the property on which the litter receptacle is located. 169

(D) As used in this section: 170

(1) "Litter" means garbage, trash, waste, rubbish, ashes, 171
cans, bottles, wire, paper, cartons, boxes, automobile parts, 172
furniture, glass, auxiliary containers, or anything else of an 173
unsightly or unsanitary nature. 174

(2) "Deposit" means to throw, drop, discard, or place. 175

(3) "Litter receptacle" means a dumpster, trash can, trash 176
bin, garbage can, or similar container in which litter is 177
deposited for removal. 178

(4) "Auxiliary container" means a bag, can, cup, food or 179
beverage service item, container, keg, bottle, or other 180
packaging to which all of the following apply: 181

(a) It is designed to be either single use or reusable. 182

(b) It is made of cloth, paper, plastic, foamed or 183
expanded plastic, cardboard, corrugated material, aluminum, 184
metal, glass, postconsumer recycled material, or similar 185

materials or substances, including coated, laminated, or 186
multilayered substrates. 187

(c) It is designed for consuming, transporting, or 188
protecting merchandise, food, or beverages from or at a food 189
service operation, retail food establishment, grocery, or any 190
other type of retail, manufacturing, or distribution 191
establishment. 192

(E) This section may be enforced by any sheriff, deputy 193
sheriff, police officer of a municipal corporation, police 194
constable or officer of a township, or township or joint police 195
district, wildlife officer designated under section 1531.13 of 196
the Revised Code, natural resources officer appointed under 197
section 1501.24 of the Revised Code, forest-fire investigator 198
appointed under section 1503.09 of the Revised Code, conservancy 199
district police officer, inspector of nuisances of a county, or 200
any other law enforcement officer within the law enforcement 201
officer's jurisdiction. 202

Section 2. That existing sections 504.04, 715.013, and 203
3767.32 of the Revised Code are hereby repealed. 204

Section 3. (A) As used in this section, "auxiliary 205
container" means a bag, can, cup, food or beverage service item, 206
container, keg, bottle, or other packaging to which all of the 207
following apply: 208

(1) It is designed to be either single use or reusable. 209

(2) It is made of cloth, paper, plastic, foamed or 210
expanded plastic, cardboard, corrugated material, aluminum, 211
metal, glass, postconsumer recycled material, or similar 212
materials or substances, including coated, laminated, or 213
multilayered substrates. 214

(3) It is designed for consuming, transporting, or 215
protecting merchandise, food, or beverages from or at a food 216
service operation, retail food establishment, grocery, or any 217
other type of retail, manufacturing, or distribution 218
establishment. 219

(B) A person may use an auxiliary container for purposes 220
of commerce or otherwise. Nothing in this section shall be 221
construed to prohibit or limit the authority of any county, 222
municipal corporation, or solid waste management district to 223
implement a voluntary recycling program. 224

Section 4. That Section 3 of this act is hereby repealed, 225
effective twelve months after the effective date of this 226
section. 227