

Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1053

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AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 36-1-3-8, AS AMENDED BY P.L.13-2013, SECTION 148, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Subject to subsection (b), a unit does not have the following:

- (1) The power to condition or limit its civil liability, except as expressly granted by statute.
- (2) The power to prescribe the law governing civil actions between private persons.
- (3) The power to impose duties on another political subdivision, except as expressly granted by statute.
- (4) The power to impose a tax, except as expressly granted by statute.
- (5) The power to impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.
- (6) The power to impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for services.
- (7) The power to regulate conduct that is regulated by a state agency, except as expressly granted by statute.
- (8) The power to prescribe a penalty for conduct constituting a crime or infraction under statute.
- (9) The power to prescribe a penalty of imprisonment for an

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ordinance violation.

(10) The power to prescribe a penalty of a fine as follows:

(A) More than ten thousand dollars (\$10,000) for the violation of an ordinance or a regulation concerning air emissions adopted by a county that has received approval to establish an air permit program under IC 13-17-12-6.

(B) For a violation of any other ordinance:

(i) more than two thousand five hundred dollars (\$2,500) for a first violation of the ordinance; and

(ii) except as provided in subsection (c), more than seven thousand five hundred dollars (\$7,500) for a second or subsequent violation of the ordinance.

(11) The power to invest money, except as expressly granted by statute.

(12) The power to order or conduct an election, except as expressly granted by statute.

**(13) The power to adopt or enforce an ordinance described in section 8.5 of this chapter.**

**(14) The power to take any action prohibited by section 8.6 of this chapter.**

(b) A township does not have the following, except as expressly granted by statute:

(1) The power to require a license or impose a license fee.

(2) The power to impose a service charge or user fee.

(3) The power to prescribe a penalty.

(c) Subsection (a)(10)(B)(ii) does not apply to the violation of an ordinance that regulates traffic or parking.

SECTION 2. IC 36-1-3-8.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** **Sec. 8.6. (a) As used in this section, "auxiliary container" means a bag, box, cup, bottle, or similar container that is:**

**(1) reusable or disposable;**

**(2) made of:**

**(A) cloth;**

**(B) paper;**

**(C) plastic;**

**(D) extruded polystyrene; or**

**(E) a similar material; and**

**(3) designed for:**

**(A) one time use; or**

**(B) transporting merchandise or food from food or retail**

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facilities.

**(b) Except as provided in subsections (c) and (d), a unit may not:**

**(1) regulate, or adopt or enforce an ordinance or resolution to regulate:**

**(A) the:**

- (i) manufacture;**
- (ii) distribution;**
- (iii) sale;**
- (iv) provision;**
- (v) use; or**
- (vi) disposition or disposal;**

**of auxiliary containers; or**

**(B) a:**

- (i) manufacturer of auxiliary containers;**
- (ii) distributor of auxiliary containers; or**
- (iii) food or retail facility that sells, provides, or otherwise makes use of auxiliary containers;**

**in connection with the manufacture, distribution, sale, provision, use, or disposition or disposal of auxiliary containers; or**

**(2) impose, or adopt or enforce an ordinance or resolution to impose, any:**

- (A) prohibition;**
- (B) restriction;**
- (C) fee; or**
- (D) tax;**

**with respect to auxiliary containers or to any person described in subdivision (1)(B) in connection with the manufacture, distribution, sale, provision, use, or disposition or disposal of auxiliary containers.**

**(c) This section does not prohibit, limit, or restrict:**

- (1) a curbside recycling program available in, or offered by, a unit; or**
- (2) the designation or operation of a residential or commercial recycling location within a unit.**

**(d) This section does not apply to the distribution, sale, provision, use, or disposition or disposal of auxiliary containers at any event that:**

- (1) is organized, sponsored, or permitted by a unit; and**
- (2) takes place on property owned by the unit.**

**SECTION 3. An emergency is declared for this act.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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