

SENATE BILL No. 371

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1-3.

Synopsis: Local regulation of packaging preemption repeal. Repeals a provision in the home rule statute that prohibits a unit of local government from: (1) regulating: (A) certain activities with respect to reusable or disposable auxiliary containers designed for one time use or for transporting merchandise or food from food or retail facilities (auxiliary containers); or (B) a manufacturer of, a distributor of, or a food or retail facility that sells, provides, or otherwise makes use of, auxiliary containers, in connection with certain activities involving auxiliary containers; or (2) imposing any prohibition, restriction, fee, or tax with respect to auxiliary containers or to a manufacturer of, a distributor of, or a food or retail facility that sells, provides, or otherwise makes use of, auxiliary containers, in connection with certain activities involving auxiliary containers. Makes a conforming change.

Effective: July 1, 2020.

Stoops

January 13, 2020, read first time and referred to Committee on Local Government.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 371

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

- 1 SECTION 1. IC 36-1-3-8, AS AMENDED BY P.L.19-2019,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 8. (a) Subject to subsection (b), a unit does not
4 have the following:
5 (1) The power to condition or limit its civil liability, except as
6 expressly granted by statute.
7 (2) The power to prescribe the law governing civil actions
8 between private persons.
9 (3) The power to impose duties on another political subdivision,
10 except as expressly granted by statute.
11 (4) The power to impose a tax, except as expressly granted by
12 statute.
13 (5) The power to impose a license fee greater than that reasonably
14 related to the administrative cost of exercising a regulatory power.
15 (6) The power to impose a service charge or user fee greater than
16 that reasonably related to reasonable and just rates and charges
17 for services.



- 1 (7) The power to regulate conduct that is regulated by a state
 2 agency, except as expressly granted by statute.
 3 (8) The power to prescribe a penalty for conduct constituting a
 4 crime or infraction under statute.
 5 (9) The power to prescribe a penalty of imprisonment for an
 6 ordinance violation.
 7 (10) The power to prescribe a penalty of a fine as follows:
 8 (A) More than ten thousand dollars (\$10,000) for the violation
 9 of an ordinance or a regulation concerning air emissions
 10 adopted by a county that has received approval to establish an
 11 air permit program under IC 13-17-12-6.
 12 (B) For a violation of any other ordinance:
 13 (i) more than two thousand five hundred dollars (\$2,500) for
 14 a first violation of the ordinance; and
 15 (ii) except as provided in subsection (c), more than seven
 16 thousand five hundred dollars (\$7,500) for a second or
 17 subsequent violation of the ordinance.
 18 (11) The power to invest money, except as expressly granted by
 19 statute.
 20 (12) The power to order or conduct an election, except as
 21 expressly granted by statute.
 22 (13) The power to adopt or enforce an ordinance described in
 23 section 8.5 of this chapter.
 24 ~~(14) The power to take any action prohibited by section 8.6 of this~~
 25 ~~chapter:~~
 26 ~~(15)~~ (14) The power to dissolve a political subdivision, except:
 27 (A) as expressly granted by statute; or
 28 (B) if IC 36-1-8-17.7 applies to the political subdivision, in
 29 accordance with the procedure set forth in IC 36-1-8-17.7.
 30 ~~(16)~~ (15) After June 30, 2019, the power to enact an ordinance
 31 requiring a solid waste hauler or a person who operates a vehicle
 32 in which recyclable material is transported for recycling to collect
 33 fees authorized by IC 13-21 and remit the fees to:
 34 (A) a unit; or
 35 (B) the board of a solid waste management district established
 36 under IC 13-21.
 37 (b) A township does not have the following, except as expressly
 38 granted by statute:
 39 (1) The power to require a license or impose a license fee.
 40 (2) The power to impose a service charge or user fee.
 41 (3) The power to prescribe a penalty.
 42 (c) Subsection (a)(10)(B)(ii) does not apply to the violation of an



1 ordinance that regulates traffic or parking.

2 SECTION 2. IC 36-1-3-8.6 IS REPEALED [EFFECTIVE JULY 1,
3 2020]. Sec. 8-6: (a) As used in this section, "auxiliary container" means
4 a bag, box, cup, bottle, or similar container that is:

5 (1) reusable or disposable;

6 (2) made of:

7 (A) cloth;

8 (B) paper;

9 (C) plastic;

10 (D) extruded polystyrene; or

11 (E) a similar material; and

12 (3) designed for:

13 (A) one time use; or

14 (B) transporting merchandise or food from food or retail
15 facilities:

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

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

19 (A) the:

20 (i) manufacture;

21 (ii) distribution;

22 (iii) sale;

23 (iv) provision;

24 (v) use; or

25 (vi) disposition or disposal;

26 of auxiliary containers; or

27 (B) a:

28 (i) manufacturer of auxiliary containers;

29 (ii) distributor of auxiliary containers; or

30 (iii) food or retail facility that sells, provides, or otherwise
31 makes use of auxiliary containers;

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

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

37 (A) prohibition;

38 (B) restriction;

39 (C) fee; or

40 (D) tax;

41 with respect to auxiliary containers or to any person described in
42 subdivision (1)(B) in connection with the manufacture;



- 1 distribution; sale; provision; use; or disposition or disposal of
- 2 auxiliary containers.
- 3 (e) This section does not prohibit, limit, or restrict:
- 4 (1) a curbside recycling program available in; or offered by; a
- 5 unit; or
- 6 (2) the designation or operation of a residential or commercial
- 7 recycling location within a unit.
- 8 (d) This section does not apply to the distribution; sale; provision;
- 9 use; or disposition or disposal of auxiliary containers at any event that:
- 10 (1) is organized; sponsored; or permitted by a unit; and
- 11 (2) takes place on property owned by the unit.

