

AN ACT

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

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

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

Sec. 301.30. For twelve months after the effective date of the enactment of this section by H.B. 242 of the 133rd general assembly, no county that has adopted a charter under Section 3 of Article X, Ohio Constitution, may impose a fee, tax, assessment, or other charge on auxiliary containers, on the sales, use, or consumption of such containers, except as authorized in Chapters 5739. and 5741. of the Revised Code, or on the basis of receipts received from the sale of such containers. As used in this section, "auxiliary container" has the same meaning as in section 3767.32 of the Revised Code.

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

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

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

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

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

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

(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;

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

(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;

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

(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;

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

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

(8) For twelve months after the effective date of the amendment of this section by H.B. 242 of the 133rd general assembly, 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 the same meaning as in section 3767.32 of the Revised Code.

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

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

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

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

(B) For twelve months after the effective date of the amendment of this section by H.B. 242 of the 133rd general assembly, 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 3767.32 of the Revised Code.

(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:

- (1) Amounts received for admission to any place;
- (2) The income of an electric company or combined company, as defined in section 5727.01 of the Revised Code;
- (3) On and after January 1, 2004, the income of a telephone company, as defined in section 5727.01 of the Revised Code.

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

- (1) The person is directed to do so by a public official as part of a litter collection drive;
- (2) Except as provided in division (B) of this section, the person deposits the litter in a litter receptacle in a manner that prevents its being carried away by the elements;
- (3) The person is issued a permit or license covering the litter pursuant to Chapter 3734. or 6111. of the Revised Code.

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

- (1) The litter was generated or located on the property on which the litter receptacle is located;
- (2) The person is directed to do so by a public official as part of a litter collection drive;
- (3) The person is directed to do so by a person whom the person reasonably believes to have the privilege to use the litter receptacle;
- (4) The litter consists of any of the following:
 - (a) The contents of a litter bag or container of a type and size customarily carried and used in a motor vehicle;
 - (b) The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle;
 - (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;
 - (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.

(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.

(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.

(D) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____