

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**S. B. No. 222**

**Senator Rulli**

**Cosponsors: Senators Schaffer, Huffman, M., Brenner, Hoagland, Roegner**

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**A BILL**

To amend sections 504.04, 715.013, 3736.01, and 1  
3767.32 and to enact sections 301.30 and 2  
3736.021 of the Revised Code to authorize the 3  
use of an auxiliary container for any purpose, 4  
to prohibit the imposition of a tax or fee on 5  
those containers, and to apply existing anti- 6  
littering law to those containers. 7

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

**Section 1.** That sections 504.04, 715.013, 3736.01, and 8  
3767.32 be amended and sections 301.30 and 3736.021 of the 9  
Revised Code be enacted to read as follows: 10

**Sec. 301.30.** No county that has adopted a charter under 11  
Section 3 of Article X, Ohio Constitution, may impose a fee, 12  
tax, assessment, or other charge on auxiliary containers, on the 13  
sales, use, or consumption of such containers, except as 14  
authorized in Chapters 5739. and 5741. of the Revised Code, or 15  
on the basis of receipts received from the sale of such 16  
containers. As used in this section, "auxiliary container" has 17  
the same meaning as in section 3736.01 of the Revised Code. 18

**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;	48 49 50
(2) Impose civil fines other than as authorized by this chapter;	51 52
(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;	53 54 55 56
(4) Establish or revise building standards, building codes, and other standard codes except as provided in section 504.13 of the Revised Code;	57 58 59
(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;	60 61 62 63
(6) Establish regulations affecting hunting, trapping, fishing, or the possession, use, or sale of firearms;	64 65
(7) Establish or revise water or sewer regulations, except in accordance with section 504.18, 504.19, or 504.21 of the Revised Code;	66 67 68
<u>(8) 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 3736.01 of the Revised Code.</u>	69 70 71 72 73
Nothing in this chapter shall be construed as affecting the powers of counties with regard to the subjects listed in	74 75

divisions (B) (3) to (5) of this section. 76

(C) Under a limited home rule government, all officers 77  
shall have the qualifications, and be nominated, elected, or 78  
appointed, as provided in Chapter 505. of the Revised Code, 79  
except that the board of township trustees shall appoint a full- 80  
time or part-time law director pursuant to section 504.15 of the 81  
Revised Code, and except that a five-member board of township 82  
trustees approved for the township before September 26, 2003, 83  
shall continue to serve as the legislative authority with 84  
successive members serving for four-year terms of office until a 85  
termination of a limited home rule government under section 86  
504.03 of the Revised Code. 87

(D) In case of conflict between resolutions enacted by a 88  
board of township trustees and municipal ordinances or 89  
resolutions, the ordinance or resolution enacted by the 90  
municipal corporation prevails. In case of conflict between 91  
resolutions enacted by a board of township trustees and any 92  
county resolution, the resolution enacted by the board of 93  
township trustees prevails. 94

**Sec. 715.013.** (A) Except as otherwise expressly authorized 95  
by the Revised Code, no municipal corporation shall levy a tax 96  
that is the same as or similar to a tax levied under Chapter 97  
322., 3734., 3769., 4123., 4141., 4301., 4303., 4305., 4307., 98  
4309., 5707., 5725., 5726., 5727., 5728., 5729., 5731., 5735., 99  
5736., 5737., 5739., 5741., 5743., 5747., 5749., or 5751. of the 100  
Revised Code. 101

(B) No municipal corporation may impose any tax, fee, 102  
assessment, or other charge on auxiliary containers, on the 103  
sale, use, or consumption of such containers, or on the basis of 104  
receipts received from the sale of such containers. As used in 105

this division, "auxiliary container" has the same meaning as in 106  
section 3736.01 of the Revised Code. 107

(C) This section does not prohibit a municipal corporation 108  
from levying an income tax or withholding tax in accordance with 109  
Chapter 718. of the Revised Code, or a tax on any of the 110  
following: 111

(1) Amounts received for admission to any place; 112

(2) The income of an electric company or combined company, 113  
as defined in section 5727.01 of the Revised Code; 114

(3) On and after January 1, 2004, the income of a 115  
telephone company, as defined in section 5727.01 of the Revised 116  
Code. 117

**Sec. 3736.01.** As used in this chapter: 118

(A) "Litter" means garbage, trash, waste, rubbish, ashes, 119  
cans, bottles, wire, paper, cartons, boxes, automobile parts, 120  
furniture, glass, or anything else of an unsightly or unsanitary 121  
nature thrown, dropped, discarded, placed, or deposited by a 122  
person on public property, on private property not owned by the 123  
person, or in or on waters of the state unless one of the 124  
following applies: 125

(1) The person has been directed to do so by a public 126  
official as part of a litter collection drive. 127

(2) The person has thrown, dropped, discarded, placed, or 128  
deposited the material in a receptacle in a manner that 129  
prevented its being carried away by the elements. 130

(3) The person has been issued a permit or license 131  
covering the material pursuant to Chapter 3734. or 6111. of the 132  
Revised Code. 133

(B) "Recycling" means the process of collecting, sorting,	134
cleansing, treating, and reconstituting waste or other discarded	135
materials for the purpose of recovering and reusing the	136
materials.	137
(C) "Agency of the state" includes, but is not limited to,	138
an agency subject to Chapter 119. of the Revised Code and a	139
state university or college as defined in section 3345.12 of the	140
Revised Code.	141
(D) "Source reduction" means activities that decrease the	142
initial production of waste materials at their point of origin.	143
(E) "Enterprise" means a business with its principal place	144
of business in this state and that proposes to engage in	145
research and development or recycling in this state.	146
(F) "Research and development" means inquiry,	147
experimentation, or demonstration to advance basic scientific or	148
technical knowledge or the application, adaptation, or use of	149
existing or newly discovered scientific or technical knowledge	150
regarding recycling, source reduction, or litter prevention.	151
(G) "Recyclables" means waste materials that are	152
collected, separated, or processed and used as raw materials or	153
products.	154
(H) "Recycling market development" means activities that	155
stimulate the demand for recycled products, provide for a	156
consistent supply of recyclables to meet the needs of recycling	157
industries, or both.	158
(I) "Solid waste management districts" means solid waste	159
management districts established under Chapter 343. of the	160
Revised Code.	161

(J) "Synthetic rubber" means produced or extended rubber 162  
and products made from a synthetic rubber base material 163  
originating from petrochemical feedstocks, including scrap 164  
tires, tire molds, automobile engine belts, brake pads and 165  
hoses, weather stripping, fittings, electrical insulation, and 166  
other molded objects and parts. 167

(K) "Auxiliary container" means a bag, can, cup, food or 168  
beverage service item, container, keg, bottle, or other 169  
packaging to which all of the following apply: 170

(1) It is designed to be either single use or reusable. 171

(2) It is made of cloth, paper, plastic, foamed or 172  
expanded plastic, cardboard, corrugated material, aluminum, 173  
metal, glass, postconsumer recycled material, or similar 174  
materials or substances, including coated, laminated, or 175  
multilayered substrates. 176

(3) It is designed for consuming, transporting, or 177  
protecting merchandise, food, or beverages from or at a food 178  
service operation, retail food establishment, grocery, or any 179  
other type of retail, manufacturing, or distribution 180  
establishment. 181

Sec. 3736.021. A person may use an auxiliary container for 182  
purposes of commerce or otherwise. 183

Nothing in this section shall be construed to prohibit or 184  
limit the authority of any county, municipal corporation, or 185  
solid waste management district to implement a voluntary 186  
recycling program. 187

Sec. 3767.32. (A) No person, regardless of intent, shall 188  
deposit litter or cause litter to be deposited on any public 189  
property, on private property not owned by the person, or in or 190

on waters of the state unless one of the following applies:	191
(1) The person is directed to do so by a public official	192
as part of a litter collection drive;	193
(2) Except as provided in division (B) of this section,	194
the person deposits the litter in a litter receptacle in a	195
manner that prevents its being carried away by the elements;	196
(3) The person is issued a permit or license covering the	197
litter pursuant to Chapter 3734. or 6111. of the Revised Code.	198
(B) No person, without privilege to do so, shall knowingly	199
deposit litter, or cause it to be deposited, in a litter	200
receptacle located on any public property or on any private	201
property not owned by the person unless one of the following	202
applies:	203
(1) The litter was generated or located on the property on	204
which the litter receptacle is located;	205
(2) The person is directed to do so by a public official	206
as part of a litter collection drive;	207
(3) The person is directed to do so by a person whom the	208
person reasonably believes to have the privilege to use the	209
litter receptacle;	210
(4) The litter consists of any of the following:	211
(a) The contents of a litter bag or container of a type	212
and size customarily carried and used in a motor vehicle;	213
(b) The contents of an ash tray of a type customarily	214
installed or carried and used in a motor vehicle;	215
(c) Beverage containers and food sacks, wrappings, and	216
containers of a type and in an amount that reasonably may be	217



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" has the same meaning as in section 3736.01 of the Revised Code.

(E) This section may be enforced by any sheriff, deputy

sheriff, police officer of a municipal corporation, police	246
constable or officer of a township, or township or joint police	247
district, wildlife officer designated under section 1531.13 of	248
the Revised Code, natural resources officer appointed under	249
section 1501.24 of the Revised Code, forest-fire investigator	250
appointed under section 1503.09 of the Revised Code, conservancy	251
district police officer, inspector of nuisances of a county, or	252
any other law enforcement officer within the law enforcement	253
officer's jurisdiction.	254
<b>Section 2.</b> That existing sections 504.04, 715.013,	255
3736.01, and 3767.32 of the Revised Code are hereby repealed.	256