

Proposed Amendment

Senate Committee on Commerce

2/14/23

Removing prohibitions on regulation of consumer merchandise.

Reviewed by Office of Revisor of Statutes

Session of 2023

**SENATE  
BILL No. 47**

By Committee on Commerce 1-18

1 AN ACT concerning cities and counties; prohibiting the regulations of  
2 ~~consumer merchandise and of~~ auxiliary containers that are designed for  
3 the consumption, transportation or protection of consumer  
4 merchandise.  
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. As used in sections 1 and 2, and amendments thereto:

8 (a) "Auxiliary container" means, without limitation, a straw, cutlery,  
9 bag, cup, package, container, bottle, device or other packaging:

10 (1) Made of cloth, paper, plastic, foamed plastic, expanded plastic,  
11 cardboard, corrugated material, aluminum, glass, postconsumer recycled  
12 material or similar coated or laminated material; and

13 (2) designed for the consumption, transportation or protection of  
14 consumer merchandise, food or beverage at a manufacturing, distribution  
15 or processing facility or a food service or retail establishment.

16 (b) "Consumer merchandise" means merchandise, wares, goods,  
17 articles or commodities offered for sale or lease, or provided with a sale or  
18 lease, primarily, but not exclusively, for personal, family or household  
19 purposes ~~and includes any auxiliary container used for consuming,~~  
20 ~~carrying or transporting such merchandise.~~

21 (c) "Food service establishment" means an establishment that  
22 prepares or serves food for sale to the public.

23 (d) "Municipality" means a city, county or unified government.

24 (e) "Retail establishment" means any retail establishment, including,  
25 but not limited to, a grocery store, supermarket, convenience store, liquor  
26 store, dry cleaning establishment, pharmacy, drug store, hardware store,  
27 clothing store or department store.

28 Sec. 2. (a) Except as provided under subsection (b), a municipality  
29 shall not adopt or enforce an ordinance, resolution or regulation that  
30 restricts, taxes, prohibits or otherwise regulates the use, disposition or sale  
31 of auxiliary containers ~~or consumer merchandise.~~

32 (b) Nothing in this act shall be construed to prohibit or restrict a  
33 municipality from:

34 (1) Passing or enforcing a general state or general local sales and use  
35 tax;

36 (2) restricting the use of glass containers within the municipality

1 based on public safety concerns;  
2 (3) prohibiting littering;  
3 (4) setting reasonable standards for the regulation of alcohol  
4 possession as otherwise provided by law;  
5 (5) operating a recycling, composting or solid waste disposal  
6 program;  
7 (6) regulating the use of auxiliary containers on property owned or  
8 maintained by the municipality;  
9 ~~(7) regulating consumer merchandise to the extent necessary to~~  
10 ~~comply with local building or fire codes;~~  
11 ~~(8) requiring the licensing or permitting of a retailer of consumer~~  
12 ~~merchandise;~~ or  
13 (9) enacting or enforcing an ordinance, motion, rule, regulation,  
14 resolution or amendment that is specifically authorized by state or federal  
15 law.  
16 (c) Except as provided by subsection (b), any ordinance, motion, rule,  
17 regulation, resolution or amendment prohibited by sections 1 and 2, and  
18 amendments thereto, that was adopted prior to the effective date of this act  
19 shall be null and void.  
20 (d) Nothing in this section shall be construed as to prohibit or restrict  
21 the zoning authority of municipalities.  
22 Sec. 3. This act shall take effect and be in force from and after its  
23 publication in the statute book.