

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 625**

**Representatives Lang, Lipps**

**Cosponsors: Representatives Carfagna, Riedel, Roegner, Thompson**

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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 a 3  
person to use an auxiliary container for any 4  
purpose, to prohibit a municipal corporation, 5  
charter county, or limited home rule township 6  
from imposing a tax or fee on auxiliary 7  
containers, and to clarify that the existing 8  
anti-littering law applies to auxiliary 9  
containers. 10

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

**Section 1.** That sections 504.04, 715.013, 3736.01, and 11  
3767.32 be amended and sections 301.30 and 3736.021 of the 12  
Revised Code be enacted to read as follows: 13

**Sec. 301.30.** No county that has adopted a charter under 14  
Section 3 of Article X, Ohio Constitution, may impose a fee, 15  
tax, assessment, or other charge on auxiliary containers, on the 16  
sales, use, or consumption of such containers, except as 17  
authorized in Chapters 5739. and 5741. of the Revised Code, or 18

on the basis of receipts received from the sale of such 19  
containers. As used in this section, "auxiliary container" has 20  
the same meaning as in section 3736.01 of the Revised Code. 21

**Sec. 504.04.** (A) A township that adopts a limited home 22  
rule government may do all of the following by resolution, 23  
provided that any of these resolutions, other than a resolution 24  
to supply water or sewer services in accordance with sections 25  
504.18 to 504.20 of the Revised Code, may be enforced only by 26  
the imposition of civil fines as authorized in this chapter: 27

(1) Exercise all powers of local self-government within 28  
the unincorporated area of the township, other than powers that 29  
are in conflict with general laws, except that the township 30  
shall comply with the requirements and prohibitions of this 31  
chapter, and shall enact no taxes other than those authorized by 32  
general law, and except that no resolution adopted pursuant to 33  
this chapter shall encroach upon the powers, duties, and 34  
privileges of elected township officers or change, alter, 35  
combine, eliminate, or otherwise modify the form or structure of 36  
the township government unless the change is required or 37  
permitted by this chapter; 38

(2) Adopt and enforce within the unincorporated area of 39  
the township local police, sanitary, and other similar 40  
regulations that are not in conflict with general laws or 41  
otherwise prohibited by division (B) of this section; 42

(3) Supply water and sewer services to users within the 43  
unincorporated area of the township in accordance with sections 44  
504.18 to 504.20 of the Revised Code; 45

(4) Adopt and enforce within the unincorporated area of 46  
the township any resolution of a type described in section 47

503.52 or 503.60 of the Revised Code. 48

(B) No resolution adopted pursuant to this chapter shall 49  
do any of the following: 50

(1) Create a criminal offense or impose criminal 51  
penalties, except as authorized by division (A) of this section 52  
or by section 503.52 of the Revised Code; 53

(2) Impose civil fines other than as authorized by this 54  
chapter; 55

(3) Establish or revise subdivision regulations, road 56  
construction standards, urban sediment rules, or storm water and 57  
drainage regulations, except as provided in section 504.21 of 58  
the Revised Code; 59

(4) Establish or revise building standards, building 60  
codes, and other standard codes except as provided in section 61  
504.13 of the Revised Code; 62

(5) Increase, decrease, or otherwise alter the powers or 63  
duties of a township under any other chapter of the Revised Code 64  
pertaining to agriculture or the conservation or development of 65  
natural resources; 66

(6) Establish regulations affecting hunting, trapping, 67  
fishing, or the possession, use, or sale of firearms; 68

(7) Establish or revise water or sewer regulations, except 69  
in accordance with section 504.18, 504.19, or 504.21 of the 70  
Revised Code; 71

(8) Impose a fee, assessment, or other charge on auxiliary 72  
containers, on the sale, use, or consumption of such containers, 73  
or on the basis of receipts received from the sale of such 74  
containers. As used in this division, "auxiliary container" has 75

the same meaning as in section 3736.01 of the Revised Code. 76

Nothing in this chapter shall be construed as affecting 77  
the powers of counties with regard to the subjects listed in 78  
divisions (B) (3) to (5) of this section. 79

(C) Under a limited home rule government, all officers 80  
shall have the qualifications, and be nominated, elected, or 81  
appointed, as provided in Chapter 505. of the Revised Code, 82  
except that the board of township trustees shall appoint a full- 83  
time or part-time law director pursuant to section 504.15 of the 84  
Revised Code, and except that a five-member board of township 85  
trustees approved for the township before September 26, 2003, 86  
shall continue to serve as the legislative authority with 87  
successive members serving for four-year terms of office until a 88  
termination of a limited home rule government under section 89  
504.03 of the Revised Code. 90

(D) In case of conflict between resolutions enacted by a 91  
board of township trustees and municipal ordinances or 92  
resolutions, the ordinance or resolution enacted by the 93  
municipal corporation prevails. In case of conflict between 94  
resolutions enacted by a board of township trustees and any 95  
county resolution, the resolution enacted by the board of 96  
township trustees prevails. 97

**Sec. 715.013.** (A) Except as otherwise expressly authorized 98  
by the Revised Code, no municipal corporation shall levy a tax 99  
that is the same as or similar to a tax levied under Chapter 100  
322., 3734., 3769., 4123., 4141., 4301., 4303., 4305., 4307., 101  
4309., 5707., 5725., 5726., 5727., 5728., 5729., 5731., 5735., 102  
5736., 5737., 5739., 5741., 5743., 5747., 5749., or 5751. of the 103  
Revised Code. 104

(B) No municipal corporation may impose any tax, fee, 105  
assessment, or other charge on auxiliary containers, on the 106  
sale, use, or consumption of such containers, or on the basis of 107  
receipts received from the sale of such containers. As used in 108  
this division, "auxiliary container" has the same meaning as in 109  
section 3736.01 of the Revised Code. 110

(C) This section does not prohibit a municipal corporation 111  
from levying an income tax or withholding tax in accordance with 112  
Chapter 718. of the Revised Code, or a tax on any of the 113  
following: 114

(1) Amounts received for admission to any place; 115

(2) The income of an electric company or combined company, 116  
as defined in section 5727.01 of the Revised Code; 117

(3) On and after January 1, 2004, the income of a 118  
telephone company, as defined in section 5727.01 of the Revised 119  
Code. 120

**Sec. 3736.01.** As used in this chapter: 121

(A) "Litter" means garbage, trash, waste, rubbish, ashes, 122  
cans, bottles, wire, paper, cartons, boxes, automobile parts, 123  
furniture, glass, or anything else of an unsightly or unsanitary 124  
nature thrown, dropped, discarded, placed, or deposited by a 125  
person on public property, on private property not owned by the 126  
person, or in or on waters of the state unless one of the 127  
following applies: 128

(1) The person has been directed to do so by a public 129  
official as part of a litter collection drive. 130

(2) The person has thrown, dropped, discarded, placed, or 131  
deposited the material in a receptacle in a manner that 132

prevented its being carried away by the elements. 133

(3) The person has been issued a permit or license 134  
covering the material pursuant to Chapter 3734. or 6111. of the 135  
Revised Code. 136

(B) "Recycling" means the process of collecting, sorting, 137  
cleansing, treating, and reconstituting waste or other discarded 138  
materials for the purpose of recovering and reusing the 139  
materials. 140

(C) "Agency of the state" includes, but is not limited to, 141  
an agency subject to Chapter 119. of the Revised Code and a 142  
state university or college as defined in section 3345.12 of the 143  
Revised Code. 144

(D) "Source reduction" means activities that decrease the 145  
initial production of waste materials at their point of origin. 146

(E) "Enterprise" means a business with its principal place 147  
of business in this state and that proposes to engage in 148  
research and development or recycling in this state. 149

(F) "Research and development" means inquiry, 150  
experimentation, or demonstration to advance basic scientific or 151  
technical knowledge or the application, adaptation, or use of 152  
existing or newly discovered scientific or technical knowledge 153  
regarding recycling, source reduction, or litter prevention. 154

(G) "Recyclables" means waste materials that are 155  
collected, separated, or processed and used as raw materials or 156  
products. 157

(H) "Recycling market development" means activities that 158  
stimulate the demand for recycled products, provide for a 159  
consistent supply of recyclables to meet the needs of recycling 160

industries, or both. 161

(I) "Solid waste management districts" means solid waste 162  
management districts established under Chapter 343. of the 163  
Revised Code. 164

(J) "Synthetic rubber" means produced or extended rubber 165  
and products made from a synthetic rubber base material 166  
originating from petrochemical feedstocks, including scrap 167  
tires, tire molds, automobile engine belts, brake pads and 168  
hoses, weather stripping, fittings, electrical insulation, and 169  
other molded objects and parts. 170

(K) "Auxiliary container" means a bag, can, cup, food 171  
service item, container, keg, bottle, or other packaging to 172  
which all of the following apply: 173

(1) It is designed to be either single use or reusable. 174

(2) It is made of cloth, paper, plastic, foamed or 175  
expanded plastic, cardboard, corrugated material, aluminum, 176  
metal, glass, postconsumer recycled material, or similar 177  
materials or substances, including coated, laminated, or 178  
multilayered substrates. 179

(3) It is designed for consuming, transporting, or 180  
protecting merchandise, food, or beverages from or at a food 181  
service operation, retail food establishment, grocery, or any 182  
other type of retail, manufacturing, or distribution 183  
establishment. 184

**Sec. 3736.021.** A person may use an auxiliary container for 185  
purposes of commerce or otherwise. 186

Nothing in this section shall be construed to prohibit or 187  
limit the authority of any county, municipal corporation, or 188

solid waste management district to implement a voluntary 189  
recycling program. 190

**Sec. 3767.32.** (A) No person, regardless of intent, shall 191  
deposit litter or cause litter to be deposited on any public 192  
property, on private property not owned by the person, or in or 193  
on waters of the state unless one of the following applies: 194

(1) The person is directed to do so by a public official 195  
as part of a litter collection drive; 196

(2) Except as provided in division (B) of this section, 197  
the person deposits the litter in a litter receptacle in a 198  
manner that prevents its being carried away by the elements; 199

(3) The person is issued a permit or license covering the 200  
litter pursuant to Chapter 3734. or 6111. of the Revised Code. 201

(B) No person, without privilege to do so, shall knowingly 202  
deposit litter, or cause it to be deposited, in a litter 203  
receptacle located on any public property or on any private 204  
property not owned by the person unless one of the following 205  
applies: 206

(1) The litter was generated or located on the property on 207  
which the litter receptacle is located; 208

(2) The person is directed to do so by a public official 209  
as part of a litter collection drive; 210

(3) The person is directed to do so by a person whom the 211  
person reasonably believes to have the privilege to use the 212  
litter receptacle; 213

(4) The litter consists of any of the following: 214

(a) The contents of a litter bag or container of a type 215



and size customarily carried and used in a motor vehicle; 216

(b) The contents of an ash tray of a type customarily 217  
installed or carried and used in a motor vehicle; 218

(c) Beverage containers and food sacks, wrappings, and 219  
containers of a type and in an amount that reasonably may be 220  
expected to be generated during routine commuting or business or 221  
recreational travel by a motor vehicle; 222

(d) Beverage containers, food sacks, wrappings, 223  
containers, and other materials of a type and in an amount that 224  
reasonably may be expected to be generated during a routine day 225  
by a person and deposited in a litter receptacle by a casual 226  
passerby. 227

(C) (1) As used in division (B) (1) of this section, "public 228  
property" includes any private property open to the public for 229  
the conduct of business, the provision of a service, or upon the 230  
payment of a fee, but does not include any private property to 231  
which the public otherwise does not have a right of access. 232

(2) As used in division (B) (4) of this section, "casual 233  
passerby" means a person who does not have depositing litter in 234  
a litter receptacle as the person's primary reason for traveling 235  
to or by the property on which the litter receptacle is located. 236

(D) As used in this section: 237

(1) "Litter" means garbage, trash, waste, rubbish, ashes, 238  
cans, bottles, wire, paper, cartons, boxes, automobile parts, 239  
furniture, glass, auxiliary containers, or anything else of an 240  
unsightly or unsanitary nature. 241

(2) "Deposit" means to throw, drop, discard, or place. 242

(3) "Litter receptacle" means a dumpster, trash can, trash 243

bin, garbage can, or similar container in which litter is 244  
deposited for removal. 245

(4) "Auxiliary container" has the same meaning as in 246  
section 3736.01 of the Revised Code. 247

(E) This section may be enforced by any sheriff, deputy 248  
sheriff, police officer of a municipal corporation, police 249  
constable or officer of a township, or township or joint police 250  
district, wildlife officer designated under section 1531.13 of 251  
the Revised Code, natural resources officer appointed under 252  
section 1501.24 of the Revised Code, forest-fire investigator 253  
appointed under section 1503.09 of the Revised Code, conservancy 254  
district police officer, inspector of nuisances of a county, or 255  
any other law enforcement officer within the law enforcement 256  
officer's jurisdiction. 257

**Section 2.** That existing sections 504.04, 715.013, 258  
3736.01, and 3767.32 of the Revised Code are hereby repealed. 259