

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 28
HOUSE BILL 2131

AN ACT

REPEALING SECTION 9-500.36, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.38; REPEALING SECTION 11-269.14, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-269.15; RELATING TO AUXILIARY CONTAINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Section 9-500.36, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 9, chapter 4, article 8, Arizona Revised Statutes, is
5 amended by adding section 9-500.38, to read:

6 9-500.38. Prohibition on regulation of auxiliary containers;
7 state preemption; definition

8 A. A CITY OR TOWN MAY NOT:

9 1. IMPOSE A TAX, FEE, ASSESSMENT, CHARGE OR RETURN DEPOSIT ON A
10 CONSUMER OR AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING
11 OR MULTIFAMILY HOUSING PROPERTY FOR AUXILIARY CONTAINERS.

12 2. REGULATE THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN
13 OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY
14 HOUSING PROPERTY.

15 B. THE REGULATION OF THE SALE, USE AND DISPOSITION OF AUXILIARY
16 CONTAINERS IS A MATTER OF STATEWIDE CONCERN. THE REGULATION OF THE SALE, USE
17 OR DISPOSITION OF AUXILIARY CONTAINERS BY AN OWNER, OPERATOR OR TENANT OF A
18 BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY PURSUANT TO
19 THIS SECTION IS NOT SUBJECT TO FURTHER REGULATION BY A CITY OR TOWN.

20 C. THIS SECTION DOES NOT PREVENT A CITY OR TOWN FROM CONTINUING A
21 VOLUNTARY RECYCLING AND WASTE REDUCTION PROGRAM AS AUTHORIZED BY SECTION
22 9-500.07 OR ENSURING THAT DISCARDED AUXILIARY CONTAINERS DEFINED AS SOLID
23 WASTE PURSUANT TO SECTION 49-701.01 ARE DISPOSED OF PROPERLY.

24 D. FOR THE PURPOSES OF THIS SECTION, "AUXILIARY CONTAINER" INCLUDES
25 REUSABLE BAGS, DISPOSABLE BAGS, BOXES, BEVERAGE CANS, BOTTLES, CUPS AND
26 CONTAINERS THAT ARE MADE OUT OF CLOTH, PLASTIC, EXTRUDED POLYSTYRENE, GLASS,
27 ALUMINUM, CARDBOARD OR OTHER SIMILAR MATERIALS AND THAT ARE USED FOR
28 TRANSPORTING MERCHANDISE OR FOOD TO OR FROM A BUSINESS OR MULTIFAMILY HOUSING
29 PROPERTY. AUXILIARY CONTAINER DOES NOT INCLUDE A STATIONARY RECEPTACLE
30 INTENDED SOLELY FOR USE BY THE PUBLIC FOR VOLUNTARY DONATION OF GOODS AND
31 MATERIALS INTENDED FOR SUBSEQUENT REUSE, SALE OR RECYCLING.

32 Sec. 3. Repeal

33 Section 11-269.14, Arizona Revised Statutes, is repealed.

34 Sec. 4. Title 11, chapter 2, article 4, Arizona Revised Statutes, is
35 amended by adding section 11-269.15, to read:

36 11-269.15. Prohibition on regulation of auxiliary containers;
37 state preemption; definition

38 A. A COUNTY MAY NOT:

39 1. IMPOSE A TAX, FEE, ASSESSMENT, CHARGE OR RETURN DEPOSIT ON A
40 CONSUMER OR AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING
41 OR MULTIFAMILY HOUSING PROPERTY FOR AUXILIARY CONTAINERS.

42 2. REGULATE THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN
43 OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY
44 HOUSING PROPERTY.

45 B. THE REGULATION OF THE SALE, USE AND DISPOSITION OF AUXILIARY
46 CONTAINERS IS A MATTER OF STATEWIDE CONCERN. THE REGULATION OF THE SALE, USE

1 OR DISPOSITION OF AUXILIARY CONTAINERS BY AN OWNER, OPERATOR OR TENANT OF A
2 BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY PURSUANT TO
3 THIS SECTION IS NOT SUBJECT TO FURTHER REGULATION BY A COUNTY.

4 C. THIS SECTION DOES NOT PREVENT A COUNTY FROM CONTINUING A VOLUNTARY
5 RECYCLING AND WASTE REDUCTION PROGRAM AS AUTHORIZED BY SECTION 11-269 OR
6 ENSURING THAT DISCARDED AUXILIARY CONTAINERS DEFINED AS SOLID WASTE PURSUANT
7 TO SECTION 49-701.01 ARE DISPOSED OF PROPERLY.

8 D. FOR THE PURPOSES OF THIS SECTION, "AUXILIARY CONTAINER" INCLUDES
9 REUSABLE BAGS, DISPOSABLE BAGS, BOXES, BEVERAGE CANS, BOTTLES, CUPS AND
10 CONTAINERS THAT ARE MADE OUT OF CLOTH, PLASTIC, EXTRUDED POLYSTYRENE, GLASS,
11 ALUMINUM, CARDBOARD OR OTHER SIMILAR MATERIALS AND THAT ARE USED FOR
12 TRANSPORTING MERCHANDISE OR FOOD TO OR FROM A BUSINESS OR MULTIFAMILY HOUSING
13 PROPERTY. AUXILIARY CONTAINER DOES NOT INCLUDE A STATIONARY RECEPTACLE
14 INTENDED SOLELY FOR USE BY THE PUBLIC FOR VOLUNTARY DONATION OF GOODS AND
15 MATERIALS INTENDED FOR SUBSEQUENT REUSE, SALE OR RECYCLING.

16 Sec. 5. Legislative findings

17 The legislature finds that small businesses are particularly sensitive
18 to costs and expenses incurred in complying with regulatory actions of a
19 city, town or county. The legislature further finds that inconsistent
20 regulation by cities, towns and counties hinders a small business from
21 benefiting from free and open competition.

APPROVED BY THE GOVERNOR MARCH 14, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 15, 2016.