State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

CHAPTER 271

SENATE BILL 1241

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.34; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-269.13; RELATING TO ENERGY REGULATORY PROHIBITION.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes, is amended by adding section 9-500.34, to read:

9-500.34. Prohibition on requirement of energy measuring and reporting; prohibition on regulation of auxiliary containers; state preemption; legislative findings; definition

A. A city or town may not:

1. require an owner, operator or tenant of a business, commercial building or multifamily housing property to measure and report energy usage and consumption, including energy consumption benchmarking and building facility energy efficiency audits.

2. impose a tax, fee, assessment, charge or return deposit on a consumer or an owner, operator or tenant of a business, commercial building or multifamily housing property for auxiliary containers.

3. regulate the sale, use or disposition of auxiliary containers by an owner, operator or tenant of a business, commercial building or multifamily housing property.

B. The regulation of an owner, operator or tenant of a business, commercial building or multifamily housing property relating to measuring and reporting energy use and consumption and the sale, use and disposition of auxiliary containers is a matter of statewide concern. The regulation of measuring and reporting energy use and consumption by an owner, operator or tenant of a business, commercial building or multifamily housing property and the sale, use or disposition of auxiliary containers by an owner, operator or tenant of a business, commercial building or multifamily housing property pursuant to this section are not subject to further regulation by a city or town.

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

D. This section does not prevent a city or town from continuing a voluntary recycling and waste reduction program as authorized by section 9-500.07 or ensuring that discarded auxiliary containers defined as solid waste pursuant to section 49-701.01 are disposed of properly.

E. For the purposes of this section, "auxiliary container" includes reusable bags, disposable bags, boxes, beverage cans, bottles, cups and containers that are made out of cloth, plastic, extruded polystyrene, glass, aluminum, cardboard or other similar materials and that are used for transporting merchandise or food to or from a business or multifamily housing property. Auxiliary container does not include a stationary receptacle intended solely for use by the public for voluntary donation of goods and materials intended for subsequent reuse, sale or recycling.
Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes, is amended by adding section 11-269.13, to read:

11-269.13. Prohibition on requirement of energy measuring and reporting; prohibition on regulation of auxiliary containers; state preemption; legislative findings; definition

A. A COUNTY MAY NOT:
1. REQUIRE AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY TO MEASURE AND REPORT ENERGY USAGE AND CONSUMPTION, INCLUDING ENERGY CONSUMPTION BENCHMARKING AND BUILDING FACILITY ENERGY EFFICIENCY AUDITS.
2. IMPOSE A TAX, FEE, ASSESSMENT, CHARGE OR RETURN DEPOSIT ON A CONSUMER OR AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY FOR AUXILIARY CONTAINERS.
3. REGULATE THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY.

B. THE REGULATION OF AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY RELATING TO MEASURING AND REPORTING ENERGY USE AND CONSUMPTION AND THE SALE, USE AND DISPOSITION OF AUXILIARY CONTAINERS IS A MATTER OF STATEWIDE CONCERN. THE REGULATION OF MEASURING AND REPORTING ENERGY USE AND CONSUMPTION BY AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY AND THE SALE, USE OR DISPOSITION OF AUXILIARY CONTAINERS BY AN OWNER, OPERATOR OR TENANT OF A BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY PURSUANT TO THIS SECTION ARE NOT SUBJECT TO FURTHER REGULATION BY A COUNTY.

C. THE LEGISLATURE FINDS THAT SMALL BUSINESSES ARE PARTICULARLY SENSITIVE TO COSTS AND EXPENSES INCURRED IN COMPLYING WITH REGULATORY ACTIONS OF A COUNTY. THE LEGISLATURE FURTHER FINDS THAT INCONSISTENT REGULATION BY COUNTIES HINDERS A SMALL BUSINESS FROM BENEFITING FROM FREE AND OPEN COMPETITION.

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

E. FOR THE PURPOSES OF THIS SECTION, "AUXILIARY CONTAINER" INCLUDES REUSABLE BAGS, DISPOSABLE BAGS, BOXES, BEVERAGE CANS, BOTTLES, CUPS AND CONTAINERS THAT ARE MADE OUT OF CLOTH, PLASTIC, EXTRUDED POLYSTYRENE, GLASS, ALUMINUM, CARDBOARD OR OTHER SIMILAR MATERIALS AND THAT ARE USED FOR TRANSPORTING MERCHANDISE OR FOOD TO OR FROM A BUSINESS OR MULTIFAMILY HOUSING PROPERTY. AUXILIARY CONTAINER DOES NOT INCLUDE A STATIONARY RECEPTACLE INTENDED SOLELY FOR USE BY THE PUBLIC FOR VOLUNTARY DONATION OF GOODS AND MATERIALS INTENDED FOR SUBSEQUENT REUSE, SALE OR RECYCLING.
S.B. 1241

APPROVED BY THE GOVERNOR APRIL 13, 2015.