

REFERENCE TITLE: municipalities; counties; auxiliary containers; prohibitions

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

HB 2131

Introduced by
Representative Petersen

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3 Section 9-500.36, Arizona Revised Statutes, is repealed.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; legislative findings; 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. THE LEGISLATURE FINDS THAT SMALL BUSINESSES ARE PARTICULARLY
21 SENSITIVE TO COSTS AND EXPENSES INCURRED IN COMPLYING WITH REGULATORY ACTIONS
22 OF A CITY OR TOWN. THE LEGISLATURE FURTHER FINDS THAT INCONSISTENT
23 REGULATION BY CITIES AND TOWNS HINDERS A SMALL BUSINESS FROM BENEFITING FROM
24 FREE AND OPEN COMPETITION.

25 D. THIS SECTION DOES NOT PREVENT A CITY OR TOWN FROM CONTINUING A
26 VOLUNTARY RECYCLING AND WASTE REDUCTION PROGRAM AS AUTHORIZED BY SECTION
27 9-500.07 OR ENSURING THAT DISCARDED AUXILIARY CONTAINERS DEFINED AS SOLID
28 WASTE PURSUANT TO SECTION 49-701.01 ARE DISPOSED OF PROPERLY.

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

37 Sec. 3. Repeal

38 Section 11-269.14, Arizona Revised Statutes, is repealed.

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

41 11-269.15. Prohibition on regulation of auxiliary containers;
42 state preemption; legislative findings; definition

43 A. A COUNTY MAY NOT:

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

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

7 B. THE REGULATION OF THE SALE, USE AND DISPOSITION OF AUXILIARY
8 CONTAINERS IS A MATTER OF STATEWIDE CONCERN. THE REGULATION OF THE SALE, USE
9 OR DISPOSITION OF AUXILIARY CONTAINERS BY AN OWNER, OPERATOR OR TENANT OF A
10 BUSINESS, COMMERCIAL BUILDING OR MULTIFAMILY HOUSING PROPERTY PURSUANT TO
11 THIS SECTION IS NOT SUBJECT TO FURTHER REGULATION BY A COUNTY.

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

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

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

29 Sec. 5. Conditional enactment

30 This act does not become effective unless House Bill ____, fifty-second
31 legislature, second regular session, relating to the regulation of measuring
32 and reporting energy usage and consumption, becomes law.