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

Section 1. Repeal

Section 9-500.36, Arizona Revised Statutes, is repealed.

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

9-500.38. Prohibition on regulation of auxiliary containers; state preemption; legislative findings; definition

A. A CITY OR TOWN MAY NOT:

1. 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.

2. 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 THE SALE, USE AND DISPOSITION OF AUXILIARY CONTAINERS IS A MATTER OF STATEWIDE CONCERN. THE REGULATION OF 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 IS 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. 3. Repeal

Section 11-269.14, Arizona Revised Statutes, is repealed.

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

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

A. A COUNTY MAY NOT:
1. 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.

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

Sec. 5. Conditional enactment

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