

South Carolina General Assembly
123rd Session, 2019-2020

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S. 394

STATUS INFORMATION

General Bill

Sponsors: Senators Talley and Climer

Document Path: I:\s-res\sft\014auxi.sp.sft.docx

Introduced in the Senate on January 22, 2019

Currently residing in the Senate

Summary: Auxiliary containers

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
1/22/2019	Senate	Introduced and read first time (Senate Journal-page 5)
1/22/2019	Senate	Referred to Committee on Labor, Commerce and Industry (Senate Journal-page 5)
4/11/2019	Senate	Committee report: Favorable Labor, Commerce and Industry (Senate Journal-page 4)

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VERSIONS OF THIS BILL

[1/22/2019](#)

[4/11/2019](#)

(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

COMMITTEE REPORT

April 11, 2019

S. 394

Introduced by Senators Talley and Climer

S. Printed 4/11/19--S.

Read the first time January 22, 2019.

THE COMMITTEE ON LABOR, COMMERCE AND INDUSTRY

To whom was referred a Bill (S. 394) to amend Chapter 17, Title 39 of the 1976 Code, relating to containers and grades, by adding Article 7, to provide that any regulation regarding the use, disposition, etc., respectfully

REPORT:

That they have duly and carefully considered the same and recommend that the same do pass:

THOMAS C. ALEXANDER for Committee.

STATEMENT OF ESTIMATED FISCAL IMPACT

Explanation of Fiscal Impact

Introduced on January 22, 2019

Local Expenditure

This bill requires that any regulation regarding the use, disposition, sale, or imposition of any prohibition, restriction, fee imposition, or taxation of auxiliary containers must be done only by the General Assembly. This bill supersedes and preempts any county or municipality ordinance that regulates

the use, disposition, sale, or imposition of any prohibition, restriction, fee imposition, or taxation of auxiliary containers. The provisions of this bill do not apply to the use of auxiliary containers within the boundaries of state parks, coastal tidelands, wetlands, or on a public beach, river, or other body of water maintained by a county or municipality. Based on our research, we found that at least one county and ten municipalities impose some type of ban on auxiliary containers. These include Beaufort County and the municipalities of Charleston, Isle of Palms, Mount Pleasant, Hilton Head Island, Bluffton, Port Royal, Beaufort, Surfside Beach, Folly Beach, and Arcadia Lakes.

The Revenue and Fiscal Affairs Office contacted forty-six counties and the Municipal Association of South Carolina (MASC) regarding the expenditure impact of this bill. Fifteen counties and two municipalities responded. Charleston, Cherokee, Clarendon, Dillon, Florence, Georgetown, Greenville, Horry, Lee, Lancaster, McCormick, Lexington, Marion, and Oconee counties all indicated there will be no expenditure impact since they do not have auxiliary container ban ordinances. Beaufort County indicates that they adopted a ban of single-use plastic bags on January 22, 2018. The county suggests that a repeal of this ordinance will encourage the use of these plastic bags, which would increase the amount of litter. The county did not estimate the additional cost from the increased amount of litter. The municipalities of Mount Pleasant and Folly Beach report that they ban the use of auxiliary containers and the repeal of the local ordinance may result in additional litter. Folly Beach estimates that personnel and other operating costs to pick up the additional litter from the beach during the summer would increase expenditures by \$158,600 per year.

Based on these responses, we expect that this bill will have no expenditure impact on the counties and municipalities that currently do not regulate auxiliary containers. Except for Folly Beach, the counties and municipalities that currently regulate auxiliary containers did not estimate the amount of additional expenditures required from this bill. Therefore, due to the limited data available from local governments that currently regulate auxiliary containers, our office is unable to determine the expenditure impact of this bill on counties and municipalities.

Local Revenue

A county or municipality may elect to impose a fine of up to \$1,000 for violation of an ordinance pertaining to the use of auxiliary containers within the exempted properties listed below:

a state, county, or municipal park

a property owned by the county or municipality, including, but not limited to, coastal tidelands, wetlands

a public beach, river, or other body of water maintained by a county or municipality.

Since this bill allows a county or municipality to elect to impose a fine of up to \$1,000 for a violation of a local ordinance pertaining to the use of auxiliary containers within the exempted properties listed above, our office is unable to determine the expenditure impact of this bill on county and municipal governments.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

A BILL

TO AMEND CHAPTER 17, TITLE 39 OF THE 1976 CODE, RELATING TO CONTAINERS AND GRADES, BY ADDING ARTICLE 7, TO PROVIDE THAT ANY REGULATION REGARDING THE USE, DISPOSITION, SALE, OR IMPOSITION OF ANY PROHIBITION, RESTRICTION, FEE IMPOSITION, OR TAXATION OF AUXILIARY CONTAINERS MUST BE DONE BY THE GENERAL ASSEMBLY, TO PROVIDE FOR EXCEPTIONS, AND TO DEFINE NECESSARY TERMS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. The General Assembly finds that:

- (1) prudent regulation of auxiliary containers is crucial to the welfare of the State's economy;
- (2) retail and food establishments are sensitive to the costs and regulation of auxiliary containers; and
- (3) if individual political subdivisions of the State regulate auxiliary containers, then there exists the potential for varying regulations, which could lead to unnecessary increased costs for retail and food establishments to comply with the regulations.

SECTION 2. Chapter 17, Title 39 of the 1976 Code is amended by adding:

"ARTICLE 7

Auxiliary Containers

Section [39-17-710](#). As used in this article, 'auxiliary container' means a bag, cup, package, device, container, bottle, or other packaging that is:

- (1) designed to be either reusable or single-use;
- (2) made of cloth; paper; plastic, including foamed or expanded plastic; cardboard; expanded polystyrene; corrugated material; aluminum; glass; or postconsumer recycled, or similar, material or substrates, including coated, laminated, or multilayer substrates; and
- (3) designed for, but not limited to, consuming, transporting, or protecting merchandise, food, or beverages from or at a food service or retail facility.

Section [39-17-720](#). (A) Any regulation regarding the use, disposition, sale, or imposition of any prohibition, restriction, fee imposition, or taxation of auxiliary containers must be done only by the General Assembly. This article supersedes and preempts any ordinance enacted by a political subdivision that purports to regulate the use, disposition, sale, or imposition of any prohibition, restriction, fee imposition, or taxation of auxiliary containers at the retail, manufacturer, or distributor level.

(B) Nothing in this article may be construed to prohibit or limit any county or municipal ordinance regulating solid waste, agreement pertaining to the disposal of solid waste, curbside recycling program, designated residential or commercial recycling locations, or commercial recycling program.

(C) Nothing in this article may be construed as applying to the use of auxiliary containers within the boundaries of a state, county, or municipal park; on a property owned by a county or municipality, including, but not limited to, coastal tidelands and wetlands; or on a public beach, river, or other body of water maintained by a county or municipality. A county or municipality that elects to enact an ordinance pertaining to the use of auxiliary containers on the exempted properties listed herein may fine a person or business in violation of the ordinance up to one thousand dollars per violation."

SECTION 3. This act takes effect upon approval by the Governor.

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