

Amendment No. 2 to HB1021

**Carr
Signature of Sponsor**

AMEND Senate Bill No. 431*

House Bill No. 1021

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 7, Chapter 51, is amended by adding the following new part:

7-51-2001.

As used in this part, unless the context requires otherwise:

(1) "Auxiliary container" means a bag, cup, bottle, can, device, eating or drinking utensil or tool, or other packaging, whether reusable or single use, which is:

(A) Made of cloth, paper, plastic, including foamed or expanded plastic, cardboard, corrugated material, aluminum, glass, post-consumer recycled material, or similar material or substrates, including coated, laminated, or multilayer substrates; and

(B) Designed for transporting, consuming, or protecting merchandise, food, or a beverage to or from, or at, a food service, manufacturing, distribution or processing facility, or retail facility; and

(2) "Local government" means a county, municipality, or county with a metropolitan form of government.

7-51-2002.

(a) A local government shall not adopt or enforce a resolution, ordinance, policy, or regulation that:

(1) Regulates the use, disposition, or sale of an auxiliary container;

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- (2) Prohibits or restricts an auxiliary container; or
- (3) Enacts a fee, charge, or tax on an auxiliary container.

(b) Subsection (a) must not be construed to restrict:

- (1) A curbside recycling program;
- (2) A designated residential or commercial recycling location;
- (3) A commercial recycling program;
- (4) The use of an auxiliary container on property owned by a local

government; or

(5) The regulation of auxiliary containers at an event, concert, or sports venue owned by a private or public entity or at an event managed by a local government.

SECTION 2. Tennessee Code Annotated, Title 53, Chapter 8, Part 2, is amended by adding the following new section:

(a) Notwithstanding any law to the contrary, and except for subdivision (c)(1), the local government's authority under title 13, chapters 7, 16, and 28, and the local government's authority to regulate roadways, traffic, and the provision of utility services, this state is the exclusive regulator of food and drink sellers, vendors, vending machine operators, food establishments, and food service establishments in this state.

(b) A local government, as that term is defined in § 7-51-2001, shall not impose a tax, fee, or otherwise regulate the wholesale or retail sale, manufacture, or distribution of any food or drink, food or drink content, amount of food or drink content, or food or

drink ingredients, except as authorized under title 67, chapter 6, or § 67-4-504, or pursuant to a contract with the department of agriculture.

(c) This section:

(1) Does not prohibit a local government from regulating zoning, building codes, locations, hours of operation, or the issuance of permits, or from performing any other local governmental functions as authorized by existing state law, with respect to food and drink sellers and vendors, vending machine operators, food establishments, and food service establishments; and

(2) Applies to both the sale and distribution of food or drink by food and drink sellers, food establishments, food service establishments, manufacturers of food and drink products regulated under title 53, chapter 1, and vending machines.

SECTION 3. Tennessee Code Annotated, Section 68-14-702, is amended by designating the existing language as subsection (a) and by adding the following new subsection:

(b)

(1) It is the further purpose of this part that, notwithstanding any law to the contrary, and except as provided under subdivision (b)(2), this state is the exclusive regulator of food and drink, food and drink content, amount of food and drink content, and food and drink ingredients in this state, and a local government, as that term is defined in § 7-51-2001, shall not impose a tax, fee, or otherwise regulate the wholesale or retail sale, manufacture, or distribution of any food or drink, food or drink content, amount of food or drink content, or food or drink ingredients, except as authorized under title 67, chapter 6, or § 67-4-504, or pursuant to a contract with the department of agriculture.

(2) This subsection (b) does not:

(A) Prohibit a local government from regulating zoning, building codes, locations, hours of operation, or the issuance of permits, or from performing any other local governmental functions as authorized by existing state law, with respect to food and drink sellers and vendors, vending machine operators, food establishments, and food service establishments; or

(B) Prohibit a local department of health from enforcing existing state laws and rules pursuant to a contract with the state department of health.

SECTION 4. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are severable.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.