

SESSION OF 2023

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2446

As Amended by House Committee on Federal
and State Affairs

Brief*

HB 2446, as amended, would prohibit municipalities from adopting or enforcing an ordinance, resolution, or regulation that restricts, taxes, imposes a fee upon, prohibits, or regulates the use of auxiliary containers.

The bill would define “auxiliary container” as a straw, bag, cup, package, container, bottle, device, or other packaging, without limitation. Such auxiliary containers could be made out of cloth, paper, plastic, foamed plastic, expanded plastic, cardboard, corrugated material, aluminum, glass, postconsumer recycled material, or any similarly coated or laminated material.

The bill would define a “municipality” as any city, county, or unified government.

Municipalities would be expressly allowed to operate composting, recycling, and solid waste disposal programs and regulate the use of containers on property owned or maintained by a municipality. The bill would also expressly exempt the following activities from the prohibition:

- Passing or enforcing a general sales and use tax;
- Restricting use of glass containers on property owned or maintained by the municipality for reasons of public safety;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Prohibiting littering; and
- Setting reasonable standards for the regulation of alcohol possession.

Background

The bill was introduced by the House Committee on Federal and State Affairs at the request of a representative of the Kansas Chamber of Commerce.

House Committee on Federal and State Affairs

In the House Committee hearing, **proponent** testimony was provided by representatives from the American Recyclable Plastic Bag Alliance, Fuel True Independent Energy and Convenience, Kansas Chamber of Commerce, Kansas Restaurant and Hospitality Association, National Federation of Independent Business, and Wine Institute. The proponents discussed the impact of increase in consumer cost and the regulations in other states and the complications that policies have on businesses as they comply with different municipal policies.

Written-only proponent testimony was provided by the Americans for Tax Reform, Kansas Agribusiness Retailers Association, Kansas Beverage Association, and the Wichita Regional Chamber of Commerce.

Opponent testimony was provided by representatives of the Kansas Association of Counties, Kansas Interfaith Action, Kansas Pet Protection Coalition, League of Kansas Municipalities, Sierra Club, Sustainability Action Network, and one private citizen. The opponents discussed the importance of local home rule and the dangers of pollution caused by plastic bags.

Written-only opponent testimony was provided by the Kansas County Commissioners Association, Kansas Organization of Recyclers, Lawrence Ecology Teams United in Sustainability, Sustainability Action Network, and fifteen private citizens.

The House Committee amended the bill to:

- Prohibit a municipality from adopting or enforcing an ordinance imposing a charge or fee upon the disposition or sale of auxiliary containers; and
- Clarify that glass containers may only be restricted on property owned or maintained by the municipality.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the League of Kansas Municipalities indicates the enactment of the bill would have a negligible fiscal effect on cities, but would eliminate the ability of local governments to tax the products specified in the bill, which would have produced additional revenue. The Kansas Association of Counties indicates the enactment of the bill would have no fiscal effect.

Containers; plastic; city regulations; county regulations