

93rd Arkansas General Assembly/Auxiliary Containers: Municipalities/Counties Prohibited from Restricting Use



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The 93rd Arkansas General Assembly convened for regular session on January 11th.

House Bill 1704 (“HB 1704”) would prohibit municipalities and counties from restricting the use of “auxiliary containers” except in specified circumstances.

The bill was introduced by Representative Ray and Senator D. Sullivan.

The bill defines “auxiliary containers” to include:

. . . a bag, cup, package, container, bottle, device, or other packaging that is without limitation:

1. Made of cloth, paper, plastic, foamed plastic, expanded plastic, cardboard, corrugated material, aluminum, glass, postconsumer recycled material, or similar coated or laminated material; and
2. Designed for the consumption, transportation, or protection of merchandise, food, or beverage at a food service facility, manufacturing facility, distribution facility, processing facility, or retail facility.

The prohibition language states that with certain specified exceptions:

. . . a municipality or county shall not restrict, tax, prohibit or otherwise regulate the use, disposition, or sale of auxiliary containers.

The exceptions include:

- (1) Operate a recycling program and a solid waste disposal program; and
- (2) Regulate the use of auxiliary containers on property owned by the municipality or county.

A number of municipalities in the United States and some states have put in place bans on certain containers. Examples include California’s and New York’s ban or fines imposed on the use of plastic containers in some instances. Another example is Maine’s polystyrene foam ban.

In contrast, a number of states have enacted laws similar to HB 1704. For example, Oklahoma and Tennessee enacted legislation preventing cities and counties from prohibiting the use of types of packaging. Approximately 14 states have enacted such restrictions on municipalities/county activity.

HB 1704 has been referred to the House Committee on City, County and Local Affairs.

A copy of HB 1704 can be downloaded [here](#).