COMMITTEE REPORT

February 2, 2017

**H. 3529**

Introduced by Reps. Bedingfield, Sandifer, Hamilton, Forrester, Atwater, Yow, Clemmons, Crawford, Fry, Hill, Lowe, Pitts, Putnam and Anderson

S. Printed 2/2/17--H.

Read the first time January 18, 2017.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 3529) to amend the Code of Laws of South Carolina, 1976, by adding Chapter 77 to Title 39 so as to provide that any regulation regarding the use, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, by striking in its entirety Section 37‑77‑20, SECTION 1, and inserting:

/ Section 39‑77‑20. As used in this chapter, ‘auxiliary container’ means a bag, cup, package, 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, 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. /

Amend further, page 2, by striking in its entirety Section 39-77-30, SECTION 1, and inserting:

/ Section 39-77-30. (A) Any regulation regarding the use, disposition, sale, or any imposition of any prohibition, restriction, fee imposition, or taxation of auxiliary containers must be done only by the General Assembly. This chapter supersedes and preempts any ordinance enacted by a political subdivision that purports to regulate the use, disposition, sale, or any imposition of any prohibition, restriction, fee imposition, or taxation of auxiliary containers at the retail, manufacturer, or distributor level.

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

(C) The provisions of this chapter do not apply to the use of auxiliary containers on a property owned by a county or municipality.

(D) The provisions of this chapter apply to auxiliary container regulations enacted after January 1, 2017. /

Renumber sections to conform.

Amend title to conform.

WILLIAM E. SANDIFER III for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 77 TO TITLE 39 SO AS TO PROVIDE THAT ANY REGULATION REGARDING THE USE, DISPOSITION, SALE, OR ANY IMPOSITION OF ANY PROHIBITION, RESTRICTION, FEE IMPOSITION, OR TAXATION OF AUXILIARY CONTAINERS MUST BE DONE ONLY BY THE GENERAL ASSEMBLY, TO DEFINE AUXILIARY CONTAINER, TO PROVIDE FOR LEGISLATIVE FINDINGS, AND TO PROVIDE FOR EXCEPTIONS.

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

SECTION 1. Title 39 of the 1976 Code is amended by adding:

“CHAPTER 77

Auxiliary Containers

Section 39‑77‑10. 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, 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 39‑77‑20. As used in this chapter, ‘auxiliary container’ means a bag, cup, package, container, bottle, or other packaging that is:

(1) designed to be either reusable or single‑use;

(2) made of cloth, paper, plastic, cardboard, expanded polystyrene, corrugated material, aluminum, glass, postconsumer recycled, or similar material or substrates, including coated, laminated, or multilayer substrates; and

(3) designed for transporting or protecting merchandise, food, or beverages from a food service or retail facility.

Section 39‑77‑30. (A) Any regulation regarding the use, disposition, sale, or any imposition of any prohibition, restriction, fee imposition, or taxation of auxiliary containers must be done only by the General Assembly. This chapter supersedes and preempts any ordinance enacted by a political subdivision that purports to regulate the disposition, sale, or any imposition of any prohibition, restriction, fee imposition, or taxation of auxiliary containers at the retail, manufacturer, or distributor level.

(B) Nothing in this chapter may be construed to prohibit or limit any county or municipal curbside recycling program, designated residential or commercial recycling locations, or commercial recycling program.

(C) The provisions of this chapter do not apply to the use of auxiliary containers on a property owned by a county or municipality.”

SECTION 2. This act takes effect upon approval by the Governor and applies to auxiliary container regulations enacted after the effective date of this act.

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