AMENDED

February 7, 2018

**H. 3529**

Introduced by Reps. Bedingfield, Sandifer, Hamilton, Forrester, Atwater, Yow, Clemmons, Crawford, Fry, Hill, Lowe, Pitts, Putnam, Anderson, Martin, G.R. Smith, Williams, Hixon, Henegan and Henderson

S. Printed 2/7/18--H.

Read the first time January 18, 2017.

**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.

Amend Title To Conform

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, 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.

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 within the boundaries of a State 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.

(D) The provisions of this chapter do not apply to auxiliary container regulations adopted before January 31, 2018, including regulations with a delayed implementation date or that are conditioned on future municipal action. A municipality located within a county that has adopted an ordinance before January 31, 2018, may pass the same or similar ordinance as the county within which it is located.”

SECTION 2. This act takes effect upon approval by the Governor.

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