



February 16, 2016

ENGROSSED HOUSE BILL No. 1053

DIGEST OF HB 1053 (Updated February 11, 2016 1:01 pm - DI 84)

Citations Affected: IC 36-1.

Synopsis: Regulation of packaging materials. Amends the home rule statute to prohibit a local government unit from: (1) regulating: (A) certain activities with respect to reusable or disposable auxiliary containers designed for one time use or for transporting merchandise or food from food or retail facilities (auxiliary containers); or (B) a manufacturer of, a distributor of, or a food or retail facility that sells, provides, or otherwise makes use of, auxiliary containers, in connection with certain activities involving auxiliary containers; or (2) imposing any prohibition, restriction, fee, or tax with respect to auxiliary
(Continued next page)

Effective: Upon passage.

Bacon, Lucas

(SENATE SPONSORS — STEELE, BECKER, HOUCHIN, FORD)

January 5, 2016, read first time and referred to Committee on Government and Regulatory Reform.

January 19, 2016, reported — Do Pass.

January 21, 2016, read second time, ordered engrossed. Engrossed.

January 25, 2016, read third time, passed. Yeas 61, nays 32.

SENATE ACTION

February 3, 2016, read first time and referred to Committee on Commerce & Technology.

February 15, 2016, reported favorably — Do Pass.

EH 1053—LS 6605/DI 101



Digest Continued

containers or to a manufacturer of, a distributor of, or a food or retail facility that sells, provides, or otherwise makes use of, auxiliary containers, in connection with certain activities involving auxiliary containers. Specifies that the prohibitions do not apply to: (1) curbside recycling programs or residential or commercial recycling locations in a unit; or (2) certain activities involving auxiliary containers at any event that: (A) is organized, sponsored, or permitted by a local government unit; and (B) takes place on property owned by the unit. Makes cross-references to: (1) these prohibitions concerning the regulation of auxiliary containers; and (2) an existing prohibition included in the home rule statute and concerning housing programs; in the section of the home rule statute that sets forth various limits on the powers of local government units.

EH 1053—LS 6605/DI 101



February 16, 2016

Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1053

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-1-3-8, AS AMENDED BY P.L.13-2013,
2 SECTION 148, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Subject to subsection (b),
4 a unit does not have the following:
5 (1) The power to condition or limit its civil liability, except as
6 expressly granted by statute.
7 (2) The power to prescribe the law governing civil actions
8 between private persons.
9 (3) The power to impose duties on another political subdivision,
10 except as expressly granted by statute.
11 (4) The power to impose a tax, except as expressly granted by
12 statute.
13 (5) The power to impose a license fee greater than that reasonably
14 related to the administrative cost of exercising a regulatory power.
15 (6) The power to impose a service charge or user fee greater than
16 that reasonably related to reasonable and just rates and charges
17 for services.

EH 1053—LS 6605/DI 101



- 1 (7) The power to regulate conduct that is regulated by a state
 2 agency, except as expressly granted by statute.
 3 (8) The power to prescribe a penalty for conduct constituting a
 4 crime or infraction under statute.
 5 (9) The power to prescribe a penalty of imprisonment for an
 6 ordinance violation.
 7 (10) The power to prescribe a penalty of a fine as follows:
 8 (A) More than ten thousand dollars (\$10,000) for the violation
 9 of an ordinance or a regulation concerning air emissions
 10 adopted by a county that has received approval to establish an
 11 air permit program under IC 13-17-12-6.
 12 (B) For a violation of any other ordinance:
 13 (i) more than two thousand five hundred dollars (\$2,500) for
 14 a first violation of the ordinance; and
 15 (ii) except as provided in subsection (c), more than seven
 16 thousand five hundred dollars (\$7,500) for a second or
 17 subsequent violation of the ordinance.
 18 (11) The power to invest money, except as expressly granted by
 19 statute.
 20 (12) The power to order or conduct an election, except as
 21 expressly granted by statute.
 22 **(13) The power to adopt or enforce an ordinance described in**
 23 **section 8.5 of this chapter.**
 24 **(14) The power to take any action prohibited by section 8.6 of**
 25 **this chapter.**
 26 (b) A township does not have the following, except as expressly
 27 granted by statute:
 28 (1) The power to require a license or impose a license fee.
 29 (2) The power to impose a service charge or user fee.
 30 (3) The power to prescribe a penalty.
 31 (c) Subsection (a)(10)(B)(ii) does not apply to the violation of an
 32 ordinance that regulates traffic or parking.
 33 SECTION 2. IC 36-1-3-8.6 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: **Sec. 8.6. (a) As used in this section, "auxiliary**
 36 **container" means a bag, box, cup, bottle, or similar container that**
 37 **is:**
 38 **(1) reusable or disposable;**
 39 **(2) made of:**
 40 **(A) cloth;**
 41 **(B) paper;**
 42 **(C) plastic;**



- 1 (D) extruded polystyrene; or
 2 (E) a similar material; and
 3 (3) designed for:
 4 (A) one time use; or
 5 (B) transporting merchandise or food from food or retail
 6 facilities.
 7 (b) Except as provided in subsections (c) and (d), a unit may not:
 8 (1) regulate, or adopt or enforce an ordinance or resolution to
 9 regulate:
 10 (A) the:
 11 (i) manufacture;
 12 (ii) distribution;
 13 (iii) sale;
 14 (iv) provision;
 15 (v) use; or
 16 (vi) disposition or disposal;
 17 of auxiliary containers; or
 18 (B) a:
 19 (i) manufacturer of auxiliary containers;
 20 (ii) distributor of auxiliary containers; or
 21 (iii) food or retail facility that sells, provides, or
 22 otherwise makes use of auxiliary containers;
 23 in connection with the manufacture, distribution, sale,
 24 provision, use, or disposition or disposal of auxiliary
 25 containers; or
 26 (2) impose, or adopt or enforce an ordinance or resolution to
 27 impose, any:
 28 (A) prohibition;
 29 (B) restriction;
 30 (C) fee; or
 31 (D) tax;
 32 with respect to auxiliary containers or to any person
 33 described in subdivision (1)(B) in connection with the
 34 manufacture, distribution, sale, provision, use, or disposition
 35 or disposal of auxiliary containers.
 36 (c) This section does not prohibit, limit, or restrict:
 37 (1) a curbside recycling program available in, or offered by,
 38 a unit; or
 39 (2) the designation or operation of a residential or commercial
 40 recycling location within a unit.
 41 (d) This section does not apply to the distribution, sale,
 42 provision, use, or disposition or disposal of auxiliary containers at



1 **any event that:**
2 **(1) is organized, sponsored, or permitted by a unit; and**
3 **(2) takes place on property owned by the unit.**
4 **SECTION 3. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1053, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1053 as introduced.)

MAHAN

Committee Vote: Yeas 10, Nays 2

COMMITTEE REPORT

Madam President: The Senate Committee on Commerce & Technology, to which was referred House Bill No. 1053, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB1053 as printed January 19, 2016.)

BUCK, Chairperson

Committee Vote: Yeas 6, Nays 4

