

Legislative Analysis



REPEAL PROHIBITION ON LOCAL UNITS OF GOVERNMENT BANNING PLASTIC BAGS

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House Bill 4359 (proposed substitute H-1)
Sponsor: Rep. Felicia Brabec
**Committee: Natural Resources, Environment,
Tourism and Outdoor Recreation**
Complete to 11-8-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4359 would amend section 1 of 2016 PA 389,¹ an act that preempts local ordinances regulating the use, disposition, or sale of, prohibiting or restricting, or imposing any fee, charge, or tax on certain containers, to amend the definition of *auxiliary container* so that it no longer includes a *bag*.

Presently, an *auxiliary container* is defined in law as a *bag*, cup, bottle, or other packaging, whether reusable or single-use, that meets both of the following requirements:

- Made of cloth, paper, plastic, cardboard, corrugated material, aluminum, glass, postconsumer recycled material, or similar material or substrates, including coated, laminated, or multilayer substrates.
- It is designed for transporting, consuming, or protecting merchandise, food, or beverages from or at a food service or retail facility.

Under the act, a local unit of government is prohibited from adopting or enforcing an ordinance that does any of the following:

- Regulates the use, disposition, or sale of auxiliary containers.
- Prohibits or restricts auxiliary containers.
- Imposes a fee, charge, or tax on auxiliary containers.

Excluding a bag from this definition, as the bill would do, would have the effect of allowing local units of government to enact ordinances that, with regard to bags, address any or all of those aspects, in accordance with other state laws. Any such ordinance that was passed before 2016 PA 389 took effect could be enforced by the municipality that enacted it.

MCL 445.591

FISCAL IMPACT:

House Bill 4359 would have no impact on state government and an indeterminate fiscal impact on local units of government that chose to enact an ordinance currently prohibited under the act. Under the bill, a local unit of government would be permitted to adopt an

¹ HFA summary of the act: <https://www.legislature.mi.gov/documents/2015-2016/billanalysis/House/pdf/2015-HLA-0853-C062BF2E.pdf>

ordinance that regulates bags or imposes fees, charges, or taxes on bags. Any estimate of regulatory costs or revenues from a fee, charge, or tax would depend on the scope and structure of the ordinance adopted by a local unit of government and cannot be estimated at this time.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.