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To: House Committee on Federal and State Affairs
From: Spencer Duncan, Government Affairs Director
Date: March 15, 2023
RE: HB 2446 – Regulating Plastics and Containers Preemption
In Opposition – Verbal Testimony

Thank you to the Chair and Committee for the opportunity to provide this testimony today.

HB 2446 is reactionary legislation to a non-existent problem that ignores Constitutional Home Rule and the desire of Kansans to have local governments make these determinations. The League, and cities of Kansas, respectfully ask you to support Constitutional Home Rule and vote NO on HB 2446. Also of note: This legislation, after much deliberation, failed to pass out of the Senate Commerce Committee earlier this session.

Sixty-two years ago, Kansas voters approved Constitutional Home Rule powers allowing cities to conduct their affairs to reflect the direct will of the residents. The Constitutional directive to you is clear: citizens of Kansas want local governments to make these decisions for their communities. HB 2446 contradicts the Constitutional right of local self-governance by removing any ability for local consideration of whether the regulation of these products is appropriate for a municipality.

It is issues such as HB 2446 that the Constitutional Home Rule Amendment was directed at when approved by voters. This issue does not rise to a level that requires your intervention. In fact, consideration of HB 47 ignores Article 12, Section 5 of the Kansas Constitution. This is clear in Article 12, Section 5(d), where it states, "*Powers and authority granted cities pursuant to this section shall be liberally construed for the purpose of giving to cities the largest measure of self-government.*"

This is not simply an "old law", a rules directive or self-guidance created by the Legislature. This is the Kansas Constitution, and on issues such as HB 2446 it cannot be tossed aside.

Aside from the Constitutional Home Rule violation, this bill is unnecessary.

The number of cities considering product restrictions is limited, and this is not likely to become a trend. There is no certainty that the few cities considering restrictions will act, and if they do it will be limited.

It is not in the best interest of a city to adopt policies that drive away business from the community or turn people off from living in their city. Just as citizens across the state must trust in those that serve in the Legislature, this Legislature must trust in the work being done by local elected officials and the citizens who elect them. HB 2446 says the Legislature does not have such trust in Kansas communities.

It is OK for cities across Kansas to look different and adopt different policies. Businesses and citizens can decide for themselves what communities they want to live and do business in. Over time, cities will adjust to the marketplace and adopt policies reflective of what attracts businesses and residents.

As it relates to products outlined in HB 2446, many companies directly impacted by limited restrictions are already moving to eliminate these products.

In the case of plastic bags, a majority of grocers in Kansas are already committed to moving away from these products. Aldi, Whole Foods, and Natural Grocers are just a few who already do not provide them. Wal-Mart and Kroger (Dillons) have committed to their removal from stores by 2025. HyVee is looking at the same commitment.

Other companies have discontinued, or limited uses, of plastic bags and other products in HB 2446. They include McDonald's, Red Lobster, Starbucks, Hyatt, Marriott, Albertsons, and Ikea.

The Beyond-The-Bag Initiative was founded by Wal-Mart, CVS Health and Target to reinvent the single-use plastic retail bag and identify and implement design solutions for more sustainable bags. The companies that have joined the program include Dick's Sporting Goods, Dollar General, Kroger, Ulta Beauty, Albertson's, HyVee, Walgreens and other major retailers.

The marketplace is telling the Legislature bills like this are unnecessary, as the business world is already moving in the opposite direction of what HB 2446 is aimed at. This is another important reason why these decisions and discussions need to happen on the local level with businesses, not in the statehouse.

Please support Constitutional Home Rule and vote NO on HB 2446.

I am always available to provide more information and answer any questions.



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