

Before the Senate Commerce Committee
Presented by Zack Pistora, Kansas Sierra Club
Opponent to SB 47
1-31-23



Madam Chair Erickson and Honorable Members of the Committee,

Thank you for the opportunity to submit testimony in strong opposition of SB 47; Preempting cities and counties from prohibiting or regulating auxiliary containers such as plastic carryout bags and other single-use disposable items that we often see littering our landscapes.

SB 47 is a preemption bill that takes away Home Rule and Local Control.

This bill takes away the rights of communities to “own” their decisions in reducing their plastic and single-use materials, etc. This is a violation of the principles of the Kansas Constitution and our democratic freedoms. Communities like Wichita, Lawrence, and Prairie Village, all have an interest in protecting both terrestrial and marine/aquatic life from entanglement in plastic bags and preserving the beauty of their farms, pastures, parks, rivers and streams, and city streets from plastic bag debris and other litter. Our local communities should have the freedom to enact ordinances unique to their concerns without the state meddling unnecessarily in their affairs.

Local solutions aimed at reducing plastic often come about due to popular local support. Local policies, before implemented, usually consult with local businesses before going into effect.

Cities that explore ways to reduce single-use containers are usually citizen-led and backed by popular support. This is the case in Wichita where dedicated residents encouraged city leaders to develop a community task force to study the opportunity to reduce plastic bags citywide. **A 2021 KU School of Medicine –Wichita study showed that more than two-thirds of the 2064 Wichita residents surveyed would support a ban or tax on plastic bags locally.** That same survey revealed that 82% of the respondents strongly/agreed there were too many plastic bags littering the community. A nationwide survey released last year by Oceana demonstrated similar results, that 8 in 10 Americans are concerned about single-use plastics and support local and state policies that aim to address single-use plastics. SB 47 obstructs this positive, democratic effort to reduce the problem or associated costs of plastic litter.

Plastic pollution is a real problem for Kansas and the world. SB 47 moves Kansas in the opposite policy direction.

The free hand-outs of single-use plastics and other take-out containers by food establishments and grocery stores have led to the realize that too many single-use containers – plastic bags, beverage cups and lids, snack wrappings, water bottles, foam clam-shells, and more – find their way on our streets and sidewalks, into drainage ditches, sewage systems, crop fields, animal stomachs, clogged machinery, and much more. Studies show that plastic is accumulating quickly in every corner of the natural environment, and that most of the litter a community faces today comes from the food and beverage industry. **A 2021 [Wichita State University study](#) concluded that roughly half of the city's litter larger than 4 inches is composed of plastic or foam, with 75% of that plastic litter coming from the food and beverage industry.** Of all the litter collected in the study, 49% of the litter overall were products of the food and beverage industry. Litter coming from the food and beverage industry increases costs associated with city cleanup, precious landfill space, and maintenance or repair with cleaning out clogged sewers, recycling equipment, and more. Several cities that have implemented local ordinances to regulate or tax single-use items [have experienced a reduction](#) in this litter and realize taxpayer savings.

Cities face costs associated with plastic pollution, including extra landfill costs, community clean-up, and jamming of equipment or infrastructure. SB 47 disempowers communities from addressing these problems and costs by not allowing them to reduce auxiliary containers at the source.

This bill does nothing positive as a substitute for local ordinances and until a state program is established to reduce plastic and other single-use waste, we ought to allow our cities the opportunity to try proactive solutions in their community.

Plastics don't biodegrade like paper. In fact, plastics break into smaller and smaller bits that eventually show up in our own food chain and our bodies. Not only does a small percentage of plastic get recycled, but creating plastics takes away oil for other valuable needs. SB 47 does nothing positive for addressing our plastic problem statewide. Furthermore, the continued use of plastics creates more problems for us and others in terms of lifecycle greenhouse gas emissions. In 2019, according to a report by the Center for International Environmental Law, the production and incineration of plastics amounts to In 2019, the production and incineration of plastic contributes more than 850 million metric tons of greenhouse gases—equal to the emissions from 189 five-hundred MW coal power plants.

Members of the Kansas Legislature, please oppose SB 47 to respect home rule and democracy, and we can work toward an alternative, uniform state approach aimed at helping industry and Kansans tackle the plastic problem together. Such an idea would be to provide for a statewide education and cleanup program aimed at single-use materials, and/or providing for a modest tax incentive to businesses that voluntarily eliminate single-use containers at their establishments. Without such amendments, SB 47 will not be helpful to the broad interests of Kansans.

Sincerely,

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The Sierra Club is the largest grassroots environmental organization dedicated to enjoying, exploring, and protecting our great outdoors. The Kansas Chapter represents our state's strongest grassroots voice on environmental matters for nearly fifty years.

SB 47 – Policy Substitutes to Address Auxiliary Containers without Infringing on Home Rule. Zack Pistora, Kansas Sierra Club Lobbyist, 785-865-6503

1) **A statewide education and cleanup program focused on auxiliary containers**, administered by KDHE with earmark funds from SGF to disperse money via grants to counties. Such funds should be used to supplement the KDHE Solid Waste Reduction grant program or separately dispersed to counties based on population.

Amendment: SB 47 instead provide for a \$2 million annual transfer from the State General Fund to the Bureau of Waste Management within the Kansas Department of Health and Environment for an education, litter reduction, and cleanup campaign for auxiliary containers, along with adding necessary FTE staff for capacity. This provision would sunset on July 1st, 2028.

2) **A tax incentive for businesses to reduce/eliminate auxiliary containers.** If businesses prove a reduction in single-use plastic or foamed plastic inventory via business receipts, perhaps businesses could receive a small break on owed income taxes. Ultimately, the associated costs of auxiliary containers get passed to consumers and taxpayers, so an incentive like this could pay for itself over time and be a win-win for businesses and the environment.

Amendment: ‘Food service establishments’ and ‘retail establishments’ (as defined by SB 47) known would be eligible for a deduction on Kansas income tax if the establishment is able to prove a reduction in plastic, foamed plastic, or expanded plastic in annual inventory. This tax incentive would be available for 5 years (tax years 2023-2027). Establishments may be able to deduct 5% from their owed tax for every 20% of reduction of plastic-based inventory for a maximum total of a 25% tax deduction for the 5-year period. For food service establishments or retail establishments that have already implemented a reduced plastic or foam commitment, these businesses would also be eligible for the deduction if the establishment can demonstrate this commitment in writing to the state. The Department of Revenue would administer this program.

3A) If the Kansas Legislature would prefer a statewide approach to reducing the problems posed by auxiliary containers to our local communities, then we ought to have interested parties figure out a successful strategy that reconciles the concern of non-uniform regulation with a waste reduction strategy.

Amendment: SB 47 should establish a **state task force** of industry, environmental interests, and local leaders to discuss/design a litter reduction strategy to be applied uniformly statewide.

14-person Task Force to meet up to 4 times during July 1st - December 31st of 2023:

Goal: To discuss a state level strategy to reduce litter waste associated with auxiliary containers

Task Force reports recommendations to the Senate Commerce Committee and House Commerce, Labor, and Economic Development Committee in the 2024 Session.

The 14 person task force will be made up of:

- Member appointed by the National Federation of Independent Businesses
- Member appointed by the Fuel True Independent Energy and Convenience
- Member appointed by Kansas Chamber of Commerce
- Member appointed by Kansas Restaurant and Hospitality Association
- Republican Member of the House (appointed by House Speaker) - Chair
- Democrat Member of the House (appointed by House Minority Leader)
- Republican Member of the Senate (appointed by the Senate President)
- Democrat Member of the Senate (appointed by Senate Minority Leader) – Vice Chair
- Member of the Public appointed by the Governor
- Member appointed by the League of Municipalities
- Member appointed by the Kansas Association of Counties
- Member appointed by the Kansas Chapter of Sierra Club
- Member appointed by Kansas Organization of Recyclers
- Member of the Kansas Department of Health and Environment

3B) **Amendment:** Alternatively or complementary to a Statewide Task Force, the Legislature could direct KDHE to survey its local Solid Waste Planning committees for recommendations for implementing a state-level reduction strategy for single-use plastics and other auxiliary containers.

