

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**ENROLLED**

**House Bill 2500**

BY DELEGATES FOSTER, DEAN, STEELE, MANDT AND J.

JEFFRIES

[Passed April 10, 2021; in effect from passage.]



1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §16-63-1, §16-63-2, and §16-63-3, all relating to establishing statewide  
3 uniformity for auxiliary container regulations.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 63. STATEWIDE UNIFORMITY FOR AUXILIARY CONTAINER  
REGULATIONS.**

**§16-63-1. Definitions.**

1 As used in this article:

2 “Auxiliary container” means a bag, cup, bottle, or other packaging, whether reusable or  
3 single-use, that meets both of the following requirements:

4 (1) Is made of cloth, paper, plastic, cardboard, corrugated material, aluminum, glass,  
5 postconsumer recycled material, or similar material or substrates, including coated, laminated,  
6 or multilayer substrates.

7 (2) Is designed for transporting, consuming, or protecting merchandise, food, or  
8 beverages from or at a food service or retail facility.

9 “Local unit of government” means a county, municipality, or city.

**§16-63-2. Local ordinance requirements.**

1 Subject to §16-63-3 of this code, a local unit of government may not adopt or enforce an  
2 ordinance that does any of the following:

3 (1) Regulates the use, disposition, or sale of auxiliary containers.

4 (2) Prohibits or restricts auxiliary containers.

5 (3) Imposes a fee, charge, or tax on auxiliary containers.

**§16-63-3. Ordinances permitted.**

1 (a) §16-63-2 of this code may not be construed to prohibit or restrict

2 any of the following:

- 3           (1) A curbside recycling program.
- 4           (2) A designated residential or commercial recycling location.
- 5           (3) A commercial recycling program.
- 6           (b) §16-63-2 of this code does not apply to any of the following:
- 7           (1) An ordinance that prohibits littering, as described in §22-15A-2 of this code.
- 8           (2) The use of auxiliary containers on property owned by a local unit of government.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2021.

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*Governor*