

MEMORANDUM

To: Members of the House Natural Resources, Environment, Tourism and Outdoor Recreation Committee and cosponsors of HB 4359

From: Michigan Retailers Association, Michigan Chamber of Commerce, Small Business Association of Michigan, Michigan Manufacturers Association, Michigan Restaurant & Lodging Association, Michigan Soft Drink Association, National Federation of Independent Business, Grand Rapids Chamber, American Recyclable Plastic Bag Alliance, American Forest and Paper Association, Plastics Industry Association, and Foodservice Packaging Institute

Date: September 28, 2023

Subject: HB 4359

On behalf of the undersigned coalition, and our collective members and their storefronts, dining establishments, and businesses operating across the state, we are opposed to HB 4359 and respectfully ask the House Natural Resources, Environment, Tourism and Outdoor Recreation Committee members and cosponsors of the bill to consider the negative consequences that would be created by repealing Public Act 389 of 2016.

Historically, the legislature's focus on this issue has been where the authority to regulate the use of auxiliary containers appropriately rests. Local governments can and should address littering policies, recycling, and solid waste management, none of which is infringed upon by P.A. 389 of 2016, which appropriately answers the question that the state, not local units of government, is in the best position to consider regulations in this area.

While the motivation for HB 4359 appears to be supporting local control, the bill would affect a wide range of materials and lead to a great deal of uncertainty for businesses and manufacturers. P.A. 389 of 2016 applies broadly to all *auxiliary containers* which includes "bags, cups, bottles, or other packaging, whether reusable or single-use" made from a variety of materials and designed to transport items from a food service or retail facility.

It is critical that approaches to better managing materials include an understanding of why different types of containers exist, what the environmental impacts are when moving to alternative materials, and the economic costs of compliance. Manufacturers of these products and the businesses that utilize them need to be part of these conversations. Michigan businesses can best meet the needs of customers through a uniform, statewide policy that avoids an overly burdensome and confusing patchwork of local regulations.

It's not simple

While an auxiliary container ban, tax or fee may seem simple, there are many potential negative impacts that need to be considered and properly addressed – but often aren't by local ordinances. Research shows that these taxes, fees, and bans disproportionately affect disadvantaged communities. For example, food insecure shoppers cannot use SNAP or WIC benefits to pay a bag fee. Many customers rely on these sturdy containers to transport their items when utilizing public transportation, a bicycle or walking.

In other states without laws like P.A. 389, local regulations have multiplied into an unworkable patchwork, designed to trigger state regulation that often followed the most punitive and restrictive local approaches. Opening the door to local bans and setting the stage for future state-level bans sends the wrong message to Michigan-based industry, could discourage future investments, or trigger businesses to reevaluate their continued operations in the state, collectively jeopardizing current workers and their future employment.

Adds costs and removes choice for consumers

Many Michigan consumers are already struggling to afford groceries, food and other necessities. This is the wrong time to open the door to increasing costs on both consumers, as well as businesses hit hard by the pandemic like restaurants and retailers. A regressive local auxiliary container ban or fee would negatively impact customers, while increasing costs that could be significant to small businesses.

Single use containers serve a public health function

Paper and plastic bags and single use containers are safe, sanitary, and have a lower overall cost and environmental footprint than many of the alternatives. These containers often serve important food safety purposes including temperature control, as well as separating raw or uncooked items. Ordinances can inadvertently include bags used for organizing prescription medications or items sold by weight that must meet fair and accurate weights and measures standards. It is important that when considering legislation such as HB 4359, goals are balanced with the collective need for affordable solutions to everyday living that protect the public health and Michigan communities.

Alternative solution: infrastructure investment

Less than a year ago, Michigan adopted a comprehensive overhaul to its recycling system that recognizes the root of concerns about auxiliary containers: insufficient infrastructure to collect, manage, sort and process materials. Instead of opening the door to local bans that prioritize alternative products that are often made from the very same materials but have higher environmental impacts, the state should utilize the open-field that P.A. 389 of 2016 preserves to explore policy that will spur the necessary investment in recycling and waste-management infrastructure in every corner of the state.

Thank you for your consideration,

