2020 South Dakota Legislature

Senate Bill 54

Introduced by: ***Senator*** *Wiik*

An Act to regulate the use of auxiliary containers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 34A-6-92 be AMENDED:

34A-6-92. Beverage containers, garbage bags, and plastic packaging materials--Preemption--Specially designated garbage bags.

The provisions of chapter 34A-7 relating to beverage containers, garbage bags, and garbage can liners, auxiliary containers, and § 34A-6-68 relating to uniform recycling codes for plastic containers, ~~shall~~ preempt all laws by any other political subdivision of the state relating to auxiliary containers, beverage containers, garbage bags, straws used for beverage consumption, or plastic packaging materials. No other political subdivision of the state may enact any law restricting the use in commerce of ~~plastic~~ auxiliary containers, beverage containers, garbage bags, straws used for beverage consumption, or plastic packaging materials. Nothing in §§ 34A-6-59 to 34A-6-92, inclusive, may be construed to limit a political subdivision from allowing or requiring specially designated garbage bags for the purpose of identifying volume or type of waste or restricting the use of glass bottles and containers within park or recreation sites and facilities due to public safety concerns.

Section 2. That § 34A-6-61 be AMENDED:

34A-6-61. Definitions.

Terms used in §§ 34A-6-59 to 34A-6-92, inclusive, mean:

(1) "Agency" or "state agency," each association, authority, board, commission, committee, council, department, division, office, officer, task force, or other agent of the state vested with the authority to exercise any portion of the state's sovereignty, including the legislative and judicial branches of the government of the state, but not including local units of government such as counties, townships,

municipalities, chartered governmental units, school or other special districts, or Indian tribes;

(2) "Auxiliary container," any bag, cup, bottle, package, container, or other packaging, whether designed to be reusable or single–use, that is made of cloth, paper, plastic, cardboard, corrugated material, aluminum, glass, postconsumer recycled material, or similar material or substrates, including coated, laminated, or multi–layer substrates, and that is designed for transporting or protecting merchandise, food, or beverages from or at a food service facility or retail facility;

(3) "Department," the Department of Environment and Natural Resources;

~~(3)~~(4) "Local unit of government," a county, municipality, school district, special district or other political subdivision of the State of South Dakota or a similar unit of government of another state or nation;

~~(4)~~(5) "Major appliance," a major residential or commercial appliance, including any air conditioner, clothes dryer, clothes washer, dishwasher, freezer, kitchen range, microwave oven, refrigerator, television, or water heater;

~~(5)~~(6) "Motor vehicle," a motor vehicle as defined in § 32-3-1;

~~(6)~~(7) "Municipality," a municipality as defined in § 9-1-1;

~~(7)~~(8) "Paper and paper products," paper items including paper napkins, towels, corrugated and other cardboard, toilet tissue, high-grade office paper, newsprint, offset paper, bond paper, xerographic bond paper, mimeo paper, and duplicator paper;

~~(8)~~(9) "Plastic," any material made of polymeric organic compounds and additives that can be shaped by flow;

~~(9)~~(10) "Plastic bottle," a plastic container having a neck that is smaller than the body of the container, accepts a screw-type, snap cap, or other closure, and has a capacity of sixteen fluid ounces or more, but less than five gallons;

~~(10)~~(11) "Plastic product label," a molded imprint or raised symbol on or near the bottom of a plastic product;

~~(11)~~(12) "Postconsumer material," products generated by a business or consumer that have served their intended end uses and that have been separated or diverted from solid waste for the purpose of collection, recycling, and disposition;

~~(12)~~(13) "Recovered material," material which is recovered or derived from solid waste;

~~(13)~~(14) "Recovered paper material," paper waste generated after the completion of the papermaking process, such as postconsumer material, envelope cuttings,

bindery trimmings, printing waste, cutting and other converting waste, butt rolls and mill wrappers, obsolete inventories, and rejected unused stock. The term does not include fibrous waste generated during the manufacturing process such as fibers recovered from waste, water, or trimmings of paper machine rolls; or fibrous by-products of harvesting, extractive, or woodcutting processes; or forest residue such as bark;

~~(13A)~~(15) "Recyclable materials," materials that are separated from solid waste for the purpose of recycling, including paper, glass, plastics, metals, motor oil, tires, and batteries;

~~(14)~~(16) "Recycled," the quality of being manufactured from or consisting of, in whole or part, materials derived from solid waste;

~~(15)~~(17) "Recycled paper," a paper product with not less than forty percent of its total weight consisting of postconsumer material and recovered paper material and at least ten percent of the total weight of recycled paper is of postconsumer materials;

~~(16)~~(18) "Recycling," any process by which waste, or materials that would otherwise become waste, are collected, separated, or processed and revised or returned to use in the form of raw materials or products. The term includes the composting of yard waste which has been previously separated from other waste, but does not include any form of energy recovery;

~~(17)~~(19) "Rigid plastic containers," any formed or molded container, other than a bottle, intended for single use, composed predominantly of plastic resin, and having a relatively inflexible shape or form with a capacity of eight ounces or more, but less than five gallons;

~~(18)~~(20) "Sanitary landfill," a solid waste disposal facility in which solid waste is buried between layers of earth;

~~(19)~~(21) "Secretary," secretary of the Department of Environment and Natural Resources;

~~(20)~~(22) "Solid waste," solid waste as defined in § 34A-6-1.3;

~~(21)~~(23) "Solid waste disposal facility," a solid waste disposal facility as defined in § 34A-6-1.3;

~~(22)~~(24) "Source reduction," practices that reduce, avoid, or eliminate both the generation of solid waste and the use of toxic materials so as to reduce risks to health and the environment and to avoid, reduce, or eliminate the generation of wastes or environmental pollution at the source and not merely achieved by shifting

a waste output or waste stream from one environmental medium to another environmental medium;

~~(23)~~(25) "Universal recycling symbol," an equilateral triangle formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The arrowhead of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three arrows curved at their midpoints, shall depict a clockwise path;

~~(24)~~(26) "Waste oil," any oil after use that is contaminated through storage or handling before the oil is recycled;

~~(25)~~(27) "Waste tire," a tire that is no longer suitable for its original purpose because of wear, damage, or defect;

~~(26)~~(28) "Waste tire collection site," a site used for the storage, collection, or deposit of waste tires;

~~(27)~~(29) "Waste tire collector," a person who owns or operates a site used for the storage, collection, or deposit of more than fifty waste tires;

~~(28)~~(30) "Waste tire processing," producing or manufacturing usable materials from waste tires. The term does not include incineration of tires for fuel or energy recovery purposes;

~~(29)~~(31) "Waste tire processing site," a site used for the processing of waste tires and owned or operated by a tire processor who has a permit for the site; and

~~(30)~~(32) "Yard waste," leaves, grass clippings, and other similar waste vegetative material.