

Testimony before the House Federal and State Affairs Committee
Opposing HB 2446
Presented by Tad Kramar

March 15, 2023

Dear Chairman Carpenter and Honorable Members of the Committee:

I am Tad Kramar, a retired business and regulatory law attorney living in Big Springs, Kansas. When you took office, you took an oath to support the Constitution of State of Kansas. Voting for HB 2446 would be a violation of your oath of office.

Few people realize the dangerously broad sweep of this bill. It seeks to prohibit cities and counties from exercising home rule under the Kansas Constitution to regulate, in any way, any kind of container or bag made of virtually any type of material used by virtually any type of business for practically any purpose.

This alarmingly broad prohibition clearly violates the Kansas Constitution. Article 12, Section 5(b) states: “Cities are hereby empowered to determine their local affairs . . .” Section 5(d) continues: “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.” (emphasis supplied) No purported rationale for this bill even comes close to justifying the denial of the constitutional rights of local governments to exercise their broad home rule authority.

This ill-conceived bill would seriously impede the ability of local elected officials to make decisions they deem best for the communities they serve. As elected officials serving at the level closest to the people, local officials generally have the best knowledge of the needs of their communities. The state should not obstruct and interfere with their ability to meet those needs.

The state legislature dislikes mandates and restrictions from the federal government. The state should not do the same to local governments.

Single-use containers impose costs on cities and counties associated with litter clean-up, landfill space and maintenance, cleaning clogged sewers, and recycling. Each city and county should be able to determine the best ways to address these costs consistent with the wishes of its citizens. This is not the place for overbearing, one-size-fits-all regulation by the state, or for the state to prohibit local regulation, but then provide no regulation of its own to address the problems.

It has been suggested that different rules by different cities exercising their constitutional home rule authority could be inconvenient for national or regional chain stores operating in multiple cities. However, chain stores already deal with many differences in local rules, such as different sales tax rates. This is no reason to take away cities’ constitutional home rule authority.

Please follow the lead of the Senate Commerce Committee, which voted down a similar bill, and oppose HB 2446. Thank you for your consideration.