

By Senator Galvano

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1 A bill to be entitled
2 An act relating to public notification of pollution;
3 creating s. 403.076, F.S.; providing a short title;
4 creating s. 403.077, F.S.; providing goals and
5 legislative findings; specifying authority of the
6 Department of Environmental Protection; specifying
7 that the act does not alter or affect the emergency
8 management responsibilities of certain other
9 governmental entities; creating s. 403.078, F.S.;
10 defining the term "reportable release"; requiring the
11 department to establish and publish the types and
12 amounts of a substance that, if released, would
13 constitute a reportable release; requiring an owner or
14 operator of an installation at which a reportable
15 release occurred to provide certain information to the
16 department within 24 hours after the discovery of a
17 reportable release; authorizing the owner or operator
18 to amend such notice; specifying compliance and
19 enforcement requirements; requiring the department to
20 publish such information in a specified manner;
21 requiring the department to establish an electronic
22 mailing list; requiring the department to provide a
23 reporting form and e-mail address for such notice;
24 specifying that providing a notice does not constitute
25 an admission of liability or harm; specifying
26 penalties for violations; requiring the department to
27 adopt rules; amending s. 403.121, F.S.; specifying
28 penalties for failure to provide required notice;
29 providing an effective date.

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31 Be It Enacted by the Legislature of the State of Florida:
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33 Section 1. Section 403.076, Florida Statutes, is created to
34 read:

35 403.076 Short title.—Sections 403.076-403.078 may be cited
36 as the “Public Notice of Pollution Act.”

37 Section 2. Section 403.077, Florida Statutes, is created to
38 read:

39 403.077 Public notice of pollution; goals and findings.—

40 (1) It is a goal of the state that the public be timely
41 notified of a discovered, reportable pollution release that may
42 pose an immediate danger to the public health, safety, or
43 welfare.

44 (2) The department has the authority and the duty to
45 control and prohibit pollution of the air and water of this
46 state and has the primary responsibility to ensure that the
47 public is aware of reportable pollution releases. Alerting the
48 department about reportable pollution releases, within the
49 timeframes and in the manner provided by this act, will better
50 inform the department and the public regarding such releases and
51 the need, if any, to take action to protect the public health,
52 safety, and welfare.

53 (3) This act does not alter or affect the emergency
54 management responsibilities of the Governor, the Division of
55 Emergency Management, or the governing body of any political
56 subdivision of the state pursuant to chapter 252.

57 Section 3. Section 403.078, Florida Statutes, is created to
58 read:

59 403.078 Public notification of pollution.—

60 (1) DEFINITION.—As used in this section, the term
61 “reportable release” means the release of a substance at or

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62 above the quantity specified by the department in subsection
63 (2).

64 (2) DEPARTMENT DETERMINATION OF REPORTABLE RELEASE.—The
65 department shall establish and publish a list of substances
66 that, at a specified quantity determined by the department,
67 present an immediate and substantial risk to the public health,
68 safety, or welfare.

69 (3) OWNER AND OPERATOR RESPONSIBILITIES.—

70 (a) In the event of a reportable release, any person who is
71 an owner or operator of the installation at which the reportable
72 release occurred must provide a notice with the following
73 information, to the extent known at the time of such notice, to
74 the department within 24 hours after its discovery:

75 1. The name and address of the installation where the
76 reportable release occurred.

77 2. The name and title of the reporting person and the
78 nature of his or her relationship to the installation.

79 3. The identification number for any active department
80 permits, variances, registrations, or orders that are relevant
81 to the reportable release.

82 4. The name and telephone number of a contact person for
83 further information.

84 5. The substance released.

85 6. The estimated quantity of the substance released and, if
86 applicable, the estimated quantity that has since been
87 recovered.

88 7. The cause of the release.

89 8. The source of the release.

90 9. The location of the release.

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91 10. The date, time, and duration of the release.

92 11. The medium into which the substance was released, such
93 as, but not limited to, the outdoor air, land, groundwater,
94 aquifer, or specified waters or wetlands.

95 12. Whether the released substance has migrated to land or
96 waters of the state outside the property boundaries of the
97 installation and the location of such migration.

98 13. To the extent available, toxicological information
99 associated with the substance released as specified on a safety
100 data sheet or comparable source published by the Occupational
101 Safety and Health Administration or the Centers for Disease
102 Control and Prevention, or their successor agencies.

103
104 The owner or operator may also include in the notice any other
105 information he or she wishes in order to assist in the
106 protection of the public health, safety, and welfare.

107 (b) If multiple parties are subject to the notification
108 requirements based on a single reportable release, a single
109 notification made by one party in accordance with this section
110 constitutes compliance on behalf of all parties subject to the
111 requirement. However, if the notification is not made in
112 accordance with this section, the department may pursue
113 enforcement against all parties subject to the requirement.

114 (c) If the installation owner or operator determines, after
115 providing notice pursuant to paragraph (a), that a reportable
116 release did not occur or that an amendment to the notice is
117 warranted, the installation owner or operator may submit a
118 letter to the department documenting such determination.

119 (4) DEPARTMENTAL RESPONSIBILITIES.—

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120 (a) The department shall publish, on a website accessible
121 to the public, all notices submitted by an owner or operator
122 pursuant to subsection (3) within 24 hours of receipt.

123 (b) The department shall create an electronic mailing list
124 for such notices and allow the public, including local
125 governments, health departments, news media, and other
126 interested persons, to subscribe to and receive periodic direct
127 announcement of any notices submitted pursuant to subsection
128 (3). The department shall establish regional electronic mailing
129 lists, such as by county or district boundaries, to allow
130 subscribers to determine the notices they wish to receive by
131 geographic area.

132 (c) The department shall establish an e-mail address and an
133 online form as options for owners and operators to provide the
134 notice specified in paragraphs (3) (a) and (b).

135 (5) ADMISSION OF LIABILITY OR HARM.—Providing notice under
136 subsection (3) does not constitute an admission of liability or
137 harm.

138 (6) VIOLATIONS.—For failure to provide the notification
139 required by paragraph (3) (a), the owner or operator shall be
140 subject to the civil penalties specified in s. 403.121.

141 (7) ADOPTION OF RULES.—The department shall adopt rules
142 necessary to administer the provisions of this section.

143 Section 4. Present paragraph (f) of subsection (4) of
144 section 403.121, Florida Statutes, is redesignated as paragraph
145 (g), and a new paragraph (f) is added to that subsection, to
146 read:

147 403.121 Enforcement; procedure; remedies.—The department
148 shall have the following judicial and administrative remedies

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149 available to it for violations of this chapter, as specified in
150 s. 403.161(1).

151 (4) In an administrative proceeding, in addition to the
152 penalties that may be assessed under subsection (3), the
153 department shall assess administrative penalties according to
154 the following schedule:

155 (f) For failure to provide required notice pursuant to s.
156 403.078, up to \$10,000 per day for each day an installation
157 owner or operator is in violation of the section.

158 Section 5. This act shall take effect July 1, 2017.