

By the Committee on Natural Resources and Senator Horne

312-1816-98

1 A bill to be entitled
 2 An act relating to pollution control; creating
 3 s. 403.7211, F.S.; restricting authority of the
 4 Department of Environmental Protection to issue
 5 permits for construction, modification, and
 6 initial operation of facilities for disposal,
 7 storage, or treatment of hazardous waste
 8 generated off-site; restricting the locations
 9 of hazardous waste transfer facilities;
 10 providing application to pending permits and
 11 proposed transfer stations; providing an
 12 effective date.

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 14 Be It Enacted by the Legislature of the State of Florida:

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 16 Section 1. Section 403.7211, Florida Statutes, is
 17 created to read:

18 403.7211 Hazardous waste facilities managing hazardous
 19 wastes generated off-site; federal facilities managing
 20 hazardous waste.

21 (1) This section applies to facilities managing
 22 hazardous waste generated off-site. This section does not
 23 apply to manufacturers, power generators, or other industrial
 24 operations that have received or apply for a permit or a
 25 modification to a permit from the department for the
 26 treatment, storage, or disposal of hazardous waste generated
 27 only on-site or from other sites owned or acquired by the
 28 permittee. Power generators are electric utilities as defined
 29 in s. 403.522 which own or operate facilities necessary for
 30 the generation, transmission, or distribution of electric
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1 energy. Notwithstanding the foregoing, this section shall
2 apply to all federal facilities that manage hazardous waste.

3 (2) The department shall not issue any permit under s.
4 403.722 for the construction, initial operation, or
5 substantial modification of a facility for the disposal,
6 storage, or treatment of hazardous waste generated off-site
7 which is proposed to be located in any of the following
8 locations:

9 (a) Any area where life-threatening concentrations of
10 hazardous substances could accumulate at any residence or
11 residential subdivision as the result of a catastrophic event
12 at the proposed facility, unless each such residence or
13 residential subdivision is served by at least one arterial
14 road or urban minor arterial road, as defined in s. 334.03,
15 which provides safe and direct egress by land to an area where
16 such life-threatening concentrations of hazardous substances
17 could not accumulate in a catastrophic event. Egress by any
18 road leading from any residence or residential subdivision to
19 any point located within 1,000 yards of the proposed facility
20 is unsafe for the purposes of this paragraph. In determining
21 whether egress proposed by the applicant is safe and direct,
22 the department shall also consider, at a minimum, the
23 following factors:

24 1. Natural barriers such as water bodies, and whether
25 any road in the proposed evacuation route is impaired by a
26 natural barrier such as a water body;

27 2. Potential exposure during egress and potential
28 increases in the duration of exposure;

29 3. Whether any road in a proposed evacuation route
30 passes in close proximity to the facility; and

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1 4. Whether any portion of the evacuation route is
2 inherently directed toward the facility;

3 (b) Any location within 1,500 yards of any hospital,
4 prison, school, nursing home facility, day care facility,
5 stadium, place of assembled worship, or any other site where
6 individuals are routinely confined or assembled in such a
7 manner that reasonable access to immediate evacuation is
8 likely to be unavailable;

9 (c) Any location within 1,000 yards of any residence;
10 or

11 (d) Any location which is inconsistent with rules
12 adopted by the department under part IV of chapter 403.

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14 For the purposes of this subsection, all distances shall be
15 measured from the outer limit of the active hazardous waste
16 management area. "Substantial modification" includes: any
17 physical change in, change in the operations of, or addition
18 to a facility which could increase the potential off-site
19 impact, or risk of impact, from a release at that facility;
20 and any change in permit conditions which is reasonably
21 expected to lead to greater potential impacts or risks of
22 impacts, from a release at that facility. "Initial operation"
23 means the initial commencement of operations at the facility.

24 (3) It shall be presumed, for the purposes of this
25 section, that life-threatening concentrations of hazardous
26 substances could accumulate in a catastrophic event in any
27 area within a radius of 3 miles of a hazardous waste transfer,
28 disposal, storage, or treatment facility. This presumption
29 may be rebutted by a demonstration that such life-threatening
30 concentrations could accumulate at a greater distance, or that
31 such life-threatening concentrations could accumulate only at

1 a lesser distance, in light of the composition, quantity, and
2 concentration of hazardous waste proposed to be disposed of,
3 treated, or stored at the proposed facility. This
4 demonstration may be made, at the election of the facility, in
5 the form of the submissions required under Program 3 of the
6 Accidental Release Prevention Program of s. 112(r)(7) of the
7 Clean Air Act.

8 (4) For the purposes of this section, a concentration
9 of hazardous substances shall be deemed to be life-threatening
10 when the concentration could cause susceptible or sensitive
11 individuals, excluding hypersensitive or hypersusceptible
12 individuals, to experience irreversible or other serious,
13 long-lasting effects or impaired ability to escape.

14 (5) No person shall construct or operate a transfer
15 facility for the management of hazardous waste unless the
16 facility meets the siting requirements of subsection (2).

17 (6) This section shall not prohibit the operation of
18 existing transfer facilities that have commenced operation as
19 of the effective date of this section, if the transfer
20 facility is not relocated or if there is no substantial
21 modification in the structure or operation of the facility
22 after the effective date of this section.

23 Section 2. Section 403.7211, Florida Statutes, as
24 created by this act, shall apply to any permit applications
25 for the construction, initial operation, or substantial
26 modification of a facility pending on the effective date of
27 this act for which the Department of Environmental Protection
28 has not issued a final order and to any proposed transfer
29 facility which has not commenced operation as of the effective
30 date of this act.

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1 Section 3. This act shall take effect upon becoming a
2 law.

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4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 SB 1390

7 The committee substitute would apply statewide instead of just
8 Duval County. The provisions of this bill would apply to
9 facilities managing hazardous waste generated off-site. It
10 does not apply to manufacturers, power generators, or other
11 industrial operations that have received, or apply for a
12 permit or a modification to a permit from the DEP for the
13 treatment, storage, or disposal of hazardous waste generated
14 only on-site or from other sites owned or acquired by the
15 permittee. The bill also applies to all federal facilities.

16 Provides that the DEP shall not issue any permit for the
17 construction, initial operation, or substantial modification
18 of a facility for the disposal, storage, or treatment of
19 hazardous waste generated off-site which is proposed to be
20 located in certain specified locations. Defines "substantial
21 modification," and "initial operation."

22 In determining whether the egress proposed by the applicant is
23 safe and direct, the DEP must consider certain specified
24 factors.

25 Provides that it is presumed that life-threatening
26 concentrations of hazardous substances could accumulate in a
27 catastrophic event in any area within a radius of 3 miles of a
28 hazardous waste transfer, disposal, storage, or treatment
29 facility. Provides for rebuttable of the assumption.

30 Provides that the provisions of this bill do not prohibit the
31 operation of existing transfer facilities that have commenced
operation as of the effective date of this bill, if the
transfer facility is not relocated or if there is no
substantial modification in the structure or operation of the
facility after the effective date of this bill.