

STORAGE NAME: h1529z.ep
DATE: May 22, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #2000-221, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
ENVIRONMENTAL PROTECTION
FINAL ANALYSIS**

BILL #: HB 1529
RELATING TO: Resource Recovery & Management
SPONSOR(S): Representative Kelly
TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ENVIRONMENTAL PROTECTION (RLC) YEAS 14 NAYS 0
 - (2) COMMUNITY AFFAIRS (PRC) YEAS 10 NAYS 0
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The bill amends the definition of "source separated" for recovered materials.

The amended definition provides that various types of recovered materials, such as metals, paper, glass, plastic, textiles and rubber, are not source separated recyclables when two or more types of recovered materials are deposited into the collection container and more than 10 percent of the container is solid waste by volume or weight.

This bill does not appear to have a fiscal impact on state government. The bill may increase local government revenues and reduce expenditures related to the problems with sham recycling. The bill may increase the costs for those in the private sector who are not currently operating pursuant to the change in the definition of "source separated."

The bill would take effect upon becoming law.

(On April 24, 2000, HB 1529 passed the House as amended by a vote of YEAS 110 NAYS 0. On April 28, 2000, HB 1529 was substituted for CS/SB 2134 and passed the senate by a vote of YEAS 38 NAYS 0.)

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

As provided in Section 403.702(1), Florida Statutes, and as part of the Legislature's effort to enhance the beauty and quality of the environment, conserve and recycle natural resources, prevent the spread of disease and the creation of nuisances, protect the public health, safety, and welfare, the Legislature has provided for a coordinated statewide solid waste management program.

An important element of this statewide solid waste management program is recycling. Consider the provisions of section 403.702, Florida Statutes, which address recycling as part of the purposes of the statewide solid waste management program:

- (a) Plan for and regulate in the most economically feasible, cost-effective, and environmentally safe manner the storage, collection, transport, separation, processing, recycling, and disposal of solid waste in order to protect the public safety, health, and welfare; enhance the environment for the people of this state; and recover resources which have the potential for further usefulness.
- (e) Promote the application of resource recovery systems which preserve and enhance the quality of air, water, and land resources.
- (i) Encourage counties and municipalities to utilize all means reasonably available to promote efficient and proper methods of managing solid waste and to promote the economical recovery of material and energy resources from solid waste, including, but not limited to, contracting with persons to provide or operate resource recovery services or facilities on behalf of the county or municipality.
- (j) Promote the education of the general public and the training of solid waste professionals to reduce the production of solid waste, to ensure proper disposal of solid waste, and to encourage recycling.
- (k) Encourage the development of waste reduction and recycling as a means of managing solid waste, conserving resources, and supplying energy through planning, grants, technical assistance, and other incentives.

(l) Encourage the development of the state's recycling industry by promoting the successful development of markets for recycled items and by promoting the acceleration and advancement of the technology used in manufacturing processes that use recycled items.

(m) Require all state agencies to aid and promote the development of recycling through their procurement policies for the general welfare and economy of the state.

(n) Require counties to develop and implement recycling programs within their jurisdictions to return valuable materials to productive use, to conserve energy and natural resources, and to protect capacity at solid waste management facilities.

Section 403.703, subsection (6), Florida Statutes, defines recycling "as any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products." This section also provides other relevant definitions with respect to recycling including:

(7) "Recovered materials" means metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered materials as described above are not solid waste.

(44) "Source separated" means the recovered materials are separated from solid waste where the recovered materials and solid waste are generated. The term does not require that various types of recovered materials be separated from each other and recognizes de minimis solid waste, in accordance with industry standards and practices, may be included in the recovered materials.

The success of a recycling program depends largely upon the method of collection used. There are three general methods that may be used.

First, recyclable materials may be separated by hand or mechanically from mixed waste after it has been collected. Material recovery facilities remove recyclables from the solid waste stream.

Second, consumers may take the recyclable materials to drop-off centers. The burden on collection and delivery shifts to the consumer, and away from the government. This is a voluntary program, participation is low and only a fraction of the waste is diverted.

The third approach is the most successful, convenient and reliable: source separated curbside collection of materials by a city or county waste management program. More than 80 percent of Florida communities have chosen curbside collection. The recyclable materials are taken to a municipal recycling facility for sorting, cleaning, and eventual sale. The nonrecyclable components are collected for landfills and put into the solid waste stream.

With high participation in recycling, there is a competitive market for carrying the waste to disposal facilities. The haulers for recyclable materials are not regulated to the same extent that the haulers for solid waste materials are regulated. In fact, the solid waste

haulers are required to enter into an exclusive franchise agreement with the city/county for hauling services. These agreements provide the local governments with a source of revenue as well as accountability should the solid waste regulations be violated. The haulers for recyclable materials, however, are not required to enter into franchise agreements and may rely instead on the free market system.

The difference in regulatory schemes for solid waste haulers and haulers of recycled materials has increased the incidence of "sham recycling." Sham recyclers are those who contend they are hauling recyclable materials but are really hauling a significant amount of solid waste in with the recyclable materials which is then deposited into a landfill. These haulers are actually solid waste haulers operating without a franchise agreement.

If a hauler repeatedly violates statutory regulations and hauls "solid waste" without being a party to a franchise agreement, then the local government may revoke the authority of the recovered materials dealer to do business within the local government's jurisdiction under section 403.7046(3)(c) and (d), Florida Statutes. The current definitional framework, however, makes such a finding difficult.

C. EFFECT OF PROPOSED CHANGES:

The bill addresses when material in a waste collection container changes from "recyclable" material to "solid waste" material. This bill acknowledges that a "de minimis" amount of solid waste does exist in the stream of recyclable materials. So, even a hauler for recyclable materials may inadvertently have some solid waste in the collection container.

The bill provides that when there are more than two types of recyclables in the collection container *and* more than 10 percent (by volume or weight) of the collection container is solid waste, then the material is deemed to be solid waste. This definition provides cities and counties with a way to determine whether the materials are "recyclable" materials or "solid waste" materials where both materials are present.

The bill also provides the cities and counties with a way to identify sham recyclers by allowing cities and counties to identify whether a load of material reaches the level of being "solid waste." The local government may take the appropriate steps to determine whether the hauler is a party to a franchise agreement, and if not, determine whether it should revoke the authority of the recovered materials dealer to do business within that local government's jurisdiction under section 403.7046(3)(c) and (d), Florida Statutes.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 403.703, F.S. to revise the definition of source separated materials; prohibits materials where two or more types of recovered materials are deposited in combination with each other in a commercial collection container located where the materials are generated and which contain more than 10 percent solid waste by volume or weight from being considered source separated.

Section 2: Provides that this act shall take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to impact state government revenues.

2. Expenditures:

This bill does not appear to impact state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may provide increased revenues for local governments by allowing better enforcement of franchise agreements.

2. Expenditures:

The bill may reduce local government expenditures by reducing the amount of recycled materials which are disposed of in the solid waste stream.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may increase the costs for those in the private sector who are not currently operating pursuant to the change in the definition of "source separated."

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

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V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 24, 2000, the House adopted an amendment on the floor which provides that the 10 percent limitation may be measured by volume or "weight" the bill was than adopted by a vote of 114 yeas to 0 nays.

On April 28, 2000, the Senate substituted HB 1529 for CS/SB 2134 and passed it by a vote of 38 yeas to 0 nays.

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

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Staff Director:

Wayne Kiger

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Prepared by:

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON ENVIRONMENTAL PROTECTION:

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