

By Senator McKay

26-1051A-00

See CS/HB 4029

1 A bill to be entitled
2 An act relating to the Florida Statutes;
3 repealing various statutory provisions that
4 have become obsolete, have had their effect,
5 have served their purpose, or have been
6 impliedly repealed or superseded; amending s.
7 161.163, F.S.; deleting an obsolete deadline
8 for designation of coastal areas to be used by
9 sea turtles for nesting; amending s. 161.56,
10 F.S.; deleting an obsolete deadline for
11 submission to the Administration Commission of
12 lists of local governments having coastal zones
13 which have not provided evidence of adoption of
14 the required building code; repealing s.
15 258.09, F.S., relating to designating Rauscher
16 Park as a state park; repealing s. 258.10,
17 F.S., relating to supervision and maintenance
18 of Rauscher Park; repealing s. 258.11, F.S.,
19 relating to land ceded as the Royal Palm State
20 Park; repealing s. 258.12, F.S., relating to
21 additional lands ceded for Royal Palm State
22 Park; repealing s. 258.14, F.S., relating to
23 tax exemptions for certain endowment lands
24 including Royal Palm State Park; repealing s.
25 258.15, F.S., relating to designating St.
26 Michael's Cemetery as a state park; amending s.
27 212.08, F.S.; conforming a cross-reference;
28 repealing s. 376.185, F.S., relating to budget
29 approval for funding enforcement of the
30 Pollutant Discharge Prevention and Control Act;
31 amending s. 376.11, F.S.; removing a

1 cross-reference, to conform; repealing s.
2 376.303(1)(e), F.S., relating to the Department
3 of Environmental Protection establishing a
4 technical advisory committee to recommend
5 certain legislation; amending s. 376.30714,
6 F.S.; conforming a cross-reference; amending s.
7 376.3071, F.S., and repealing paragraph (6)(c),
8 relating to a loan from the Florida Coastal
9 Protection Trust Fund to provide funding to the
10 Inland Protection Trust Fund; updating
11 provisions relating to reimbursement for
12 cleanup expenses from the Inland Protection
13 Trust Fund; repealing s. 377.02, F.S., relating
14 to the form of the interstate compact to
15 conserve oil and gas; amending s. 378.208,
16 F.S., and repealing subsection (3), relating to
17 financial assurance requirements for phosphate
18 land operators; conforming a cross-reference;
19 amending s. 403.085, F.S.; deleting obsolete
20 deadlines and references in provisions
21 requiring certain sanitary sewage disposal
22 treatment plants and industrial plants or
23 facilities to provide for secondary and any
24 ordered advanced waste treatment; amending s.
25 403.086, F.S.; deleting obsolete deadlines and
26 references in provisions requiring certain
27 sanitary sewage disposal facilities to provide
28 for secondary and any ordered advanced waste
29 treatment; amending s. 403.0872, F.S.; deleting
30 an obsolete deadline relating to the audit of
31 the major stationary source air-operation

1 permit program; repealing s. 403.08851, F.S.,
2 relating to implementation of the state
3 National Pollutant Discharge Elimination System
4 (NPDES) Program; repealing s. 403.1826(6)(b),
5 F.S., relating to a temporary waiver from
6 accumulation requirements of the Florida Water
7 Pollution Control and Sewage Treatment Plant
8 Grant Act; repealing s. 403.221, F.S., relating
9 to proceedings pending at the time of adoption
10 of the Florida Air and Water Pollution Control
11 Act; amending s. 403.7046, F.S.; deleting
12 obsolete dates relating to regulation of
13 recovered materials; amending s. 403.703, F.S.;
14 correcting a cross-reference; amending s.
15 403.7049, F.S.; deleting obsolete dates
16 relating to local government determination and
17 notification of the full cost for solid waste
18 management; amending s. 403.706, F.S.; deleting
19 obsolete dates relating to the reduction and
20 weighing of solid waste received by a solid
21 waste management facility; amending s. 403.707,
22 F.S.; deleting an obsolete date relating to
23 solid waste management facility permits;
24 amending s. 403.708, F.S.; deleting obsolete
25 dates relating to beverage container and
26 packaging requirements; amending s. 403.716,
27 F.S.; deleting obsolete dates relating to
28 training of operators of landfills,
29 waste-to-energy facilities, biomedical waste
30 incinerators, or mobile soil thermal treatment
31 units or facilities; amending s. 403.7186,

1 F.S.; deleting obsolete dates relating to
2 environmentally sound management of
3 mercury-containing devices and lamps; amending
4 s. 403.7191, F.S.; deleting an obsolete date
5 relating to reduction of toxics in packaging;
6 amending s. 403.7192, F.S.; deleting obsolete
7 provisions relating to requirements for
8 manufacturers, sellers, and consumers with
9 respect to batteries; repealing s. 403.7199,
10 F.S., relating to the Florida Packaging
11 Council; amending s. 403.724, F.S.; deleting an
12 obsolete deadline for hazardous waste
13 facilities to comply with financial
14 responsibility requirements; amending s.
15 403.7265, F.S.; deleting an obsolete deadline
16 for development of the local hazardous waste
17 collection program; amending s. 403.767, F.S.;
18 deleting an obsolete date relating to
19 certification of used oil transporters;
20 amending s. 403.769, F.S.; deleting an obsolete
21 date relating to development of the permitting
22 system for used oil processing facilities;
23 repealing ch. 533, F.S., relating to mining
24 wastes; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 161.163, Florida Statutes, is
29 amended to read:

30 161.163 Coastal areas used by sea turtles;
31 rules.--~~Within 2 years of July 1, 1986,~~The department shall

1 adopt by rule a designation of coastal areas which are
2 utilized, or are likely to be utilized, by sea turtles for
3 nesting. The department shall also adopt by rule guidelines
4 for local government regulations that control beachfront
5 lighting to protect hatching sea turtles.

6 Section 2. Subsection (2) of section 161.56, Florida
7 Statutes, is amended to read:

8 161.56 Establishment of local enforcement.--

9 (2) Each local government shall provide evidence to
10 the state land planning agency that it has adopted a building
11 code pursuant to this section. ~~Within 90 days after January~~
12 ~~1, 1987,~~The state land planning agency shall submit to the
13 Administration Commission a list of those local governments
14 which have not submitted such evidence of adoption. The sole
15 issue before the Administration Commission shall be whether or
16 not to impose sanctions pursuant to s. 163.3184(11)(~~8~~).

17 Section 3. Sections 258.09, 258.10, 258.11, 258.12,
18 258.14, and 258.15, Florida Statutes, are repealed.

19 Section 4. Subsection (13) of section 212.08, Florida
20 Statutes, is amended to read:

21 212.08 Sales, rental, use, consumption, distribution,
22 and storage tax; specified exemptions.--The sale at retail,
23 the rental, the use, the consumption, the distribution, and
24 the storage to be used or consumed in this state of the
25 following are hereby specifically exempt from the tax imposed
26 by this chapter.

27 (13) No transactions shall be exempt from the tax
28 imposed by this chapter except those expressly exempted
29 herein. All laws granting tax exemptions, to the extent they
30 may be inconsistent or in conflict with this chapter,
31 including, but not limited to, the following designated laws,

1 shall yield to and be superseded by the provisions of this
2 subsection: ss. 125.019, 153.76, 154.2331, 159.15, 159.31,
3 159.50, 159.708, 163.385, 163.395, 215.76, 243.33, ~~258.14,~~
4 315.11, 348.65, 348.762, 349.13, 403.1834, 616.07, and 623.09,
5 and the following Laws of Florida, acts of the year indicated:
6 s. 31, chapter 30843, 1955; s. 19, chapter 30845, 1955; s. 12,
7 chapter 30927, 1955; s. 8, chapter 31179, 1955; s. 15, chapter
8 31263, 1955; s. 13, chapter 31343, 1955; s. 16, chapter
9 59-1653; s. 13, chapter 59-1356; s. 12, chapter 61-2261; s.
10 19, chapter 61-2754; s. 10, chapter 61-2686; s. 11, chapter
11 63-1643; s. 11, chapter 65-1274; s. 16, chapter 67-1446; and
12 s. 10, chapter 67-1681.

13 Section 5. Section 376.185, Florida Statutes, is
14 repealed.

15 Section 6. Paragraph (a) of subsection (4) of section
16 376.11, Florida Statutes, is amended to read:

17 376.11 Florida Coastal Protection Trust Fund.--

18 (4) Moneys in the Florida Coastal Protection Trust
19 Fund shall be disbursed for the following purposes and no
20 others:

21 (a) Administrative expenses, personnel expenses, and
22 equipment costs of the department and the Fish and Wildlife
23 Conservation Commission related to the enforcement of ss.
24 376.011-376.21 ~~subject to s. 376.185.~~

25 Section 7. Paragraph (e) of subsection (1) of section
26 376.303, Florida Statutes, is repealed.

27 Section 8. Subsection (12) of section 376.30714,
28 Florida Statutes, is amended to read:

29 376.30714 Site rehabilitation agreements.--

30 (12) Nothing in this section shall be construed to
31 preclude the department from pursuing penalties in accordance

1 with ss. 376.303(1)(j)~~(k)~~ and 376.311 for violations of any
2 law or any rule, order, permit, registration, or certification
3 adopted or issued by the department pursuant to its lawful
4 authority.

5 Section 9. Paragraph (c) of subsection (6) of section
6 376.3071, Florida Statutes, is repealed, and paragraph (k) of
7 subsection (12) of that section is amended to read:

8 376.3071 Inland Protection Trust Fund; creation;
9 purposes; funding.--

10 (12) REIMBURSEMENT FOR CLEANUP EXPENSES.--Except as
11 provided in s. 2(3), chapter 95-2, Laws of Florida, this
12 subsection shall not apply to any site rehabilitation program
13 task initiated after March 29, 1995. Effective August 1, 1996,
14 no further site rehabilitation work on sites eligible for
15 state-funded cleanup from the Inland Protection Trust Fund
16 shall be eligible for reimbursement pursuant to this
17 subsection. The person responsible for conducting site
18 rehabilitation may seek reimbursement for site rehabilitation
19 program task work conducted after March 28, 1995, in
20 accordance with s. 2(2) and (3), chapter 95-2, Laws of
21 Florida, regardless of whether the site rehabilitation program
22 task is completed. A site rehabilitation program task shall
23 be considered to be initiated when actual onsite work or
24 engineering design, pursuant to chapter 62-770, Florida
25 Administrative Code, which is integral to performing a site
26 rehabilitation program task has begun and shall not include
27 contract negotiation and execution, site research, or project
28 planning. All reimbursement applications pursuant to this
29 subsection must be submitted to the department by January 3,
30 1997. The department shall not accept any applications for
31 reimbursement or pay any claims on applications for

1 reimbursement received after that date; provided, however if
2 an application filed on or prior to January 3, 1997, was
3 returned by the department on the grounds of untimely filing,
4 it shall be refiled within 30 days after the effective date of
5 this act in order to be processed.

6 (k) Audits.--

7 1. The department is authorized to perform financial
8 and technical audits in order to certify site restoration
9 costs and ensure compliance with this chapter. The department
10 shall seek recovery of any overpayments based on the findings
11 of these audits. The department must commence any audit within
12 5 years after the date of reimbursement, except in cases where
13 the department alleges specific facts indicating fraud.

14 2. Upon determination by the department that any
15 portion of costs which have been reimbursed are disallowed,
16 the department shall give written notice to the applicant
17 setting forth with specificity the allegations of fact which
18 justify the department's proposed action and ordering
19 repayment of disallowed costs within 60 days of notification
20 of the applicant.

21 3. In the event the applicant does not make payment to
22 the department within 60 days of receipt of such notice, the
23 department shall seek recovery in a court of competent
24 jurisdiction to recover reimbursement overpayments made to the
25 person responsible for conducting site rehabilitation, unless
26 the department finds the amount involved too small or the
27 likelihood of recovery too uncertain.

28 4. In addition to the amount of any overpayment, the
29 applicant shall be liable to the department for interest of 1
30 percent per month or the prime rate, whichever is less, on the
31 amount of overpayment, from the date of overpayment by the

1 department until the applicant satisfies the department's
2 request for repayment pursuant to this paragraph. The
3 calculation of interest shall be tolled during the pendency of
4 any litigation.

5 5. Financial and technical audits frequently are
6 conducted under this section many years after the site
7 rehabilitation activities were performed and the costs
8 examined in the course of the audit were incurred by the
9 person responsible for site rehabilitation. During the
10 intervening span of years, the department's rule requirements
11 and its related guidance and other nonrule policy directives
12 may have changed significantly. The Legislature finds that it
13 may be appropriate for the department to provide relief to
14 persons subject to such requirements in financial and
15 technical audits conducted pursuant to this section.

16 a. The department is authorized to grant variances and
17 waivers from the documentation requirements of subparagraph
18 (e)2. and from the requirements of rules applicable in
19 technical and financial audits conducted under this section.
20 Variances and waivers shall be granted when the person
21 responsible for site rehabilitation demonstrates to the
22 department that application of a financial or technical
23 auditing requirement would create a substantial hardship or
24 would violate principles of fairness. For purposes of this
25 subsection, "substantial hardship" means a demonstrated
26 economic, technological, legal, or other type of hardship to
27 the person requesting the variance or waiver. For purposes of
28 this subsection, "principles of fairness" are violated when
29 the application of a requirement affects a particular person
30 in a manner significantly different from the way it affects
31 other similarly situated persons who are affected by the

1 requirement or when the requirement is being applied
2 retroactively without due notice to the affected parties.

3 b. A person whose reimbursed costs are subject to a
4 financial and technical audit under this section may file a
5 written request to the department for grant of a variance or
6 waiver. The request shall specify:

7 (I) The requirement from which a variance or waiver is
8 requested.

9 (II) The type of action requested.

10 (III) The specific facts which would justify a waiver
11 or variance.

12 (IV) The reason or reasons why the requested variance
13 or waiver would serve the purposes of this section.

14 c. Within 90 days after receipt of a written request
15 for variance or waiver under this subsection, the department
16 shall grant or deny the request. If the request is not granted
17 or denied within 90 days of receipt, the request shall be
18 deemed approved. An order granting or denying the request
19 shall be in writing and shall contain a statement of the
20 relevant facts and reasons supporting the department's action.
21 The department's decision to grant or deny the petition shall
22 be supported by competent substantial evidence and is subject
23 to ss. 120.569 and 120.57. Once adopted, model rules
24 promulgated by the Administration Commission under s. 120.542
25 shall govern the processing of requests under this provision
26 ~~however, the department may process requests prior to the~~
27 ~~adoption of those model rules.~~

28 6. The Comptroller may audit the records of persons
29 who receive or who have received payments pursuant to this
30 chapter in order to verify site restoration costs, ensure
31 compliance with this chapter, and verify the accuracy and

1 completeness of audits performed by the department pursuant to
2 this paragraph. The Comptroller may contract with entities or
3 persons to perform audits pursuant to this subparagraph. The
4 Comptroller shall commence any audit within 1 year after the
5 department's completion of an audit conducted pursuant to this
6 paragraph, except in cases where the department or the
7 Comptroller alleges specific facts indicating fraud.

8 Section 10. Section 377.02, Florida Statutes, is
9 repealed.

10 Section 11. Subsection (3) of section 378.208, Florida
11 Statutes, is repealed, and paragraph (a) of subsection (2) of
12 that section is amended to read:

13 378.208 Financial responsibility.--

14 (2) Operators who are not in compliance with the rate
15 of reclamation established in s. 378.209 must post one or more
16 of the following forms of security:

17 (a) A lien in favor of the state on unmined lands or
18 on reclaimed and released real property owned in fee simple
19 absolute by the operator. No formal appraisal of the property
20 shall be required; however, the unencumbered value of the
21 property shall be comparable to the cost of reclamation
22 established pursuant to subsection~~(3)~~~~(4)~~.

23
24 The form of security posted shall be at the option of the
25 operator and shall cover the number of acres for which the
26 operator is delinquent in reclaiming in the required time
27 period as well as the number of acres that the operator must
28 reclaim in the current 5-year period. The security, other
29 than the donation of land, shall be released upon completion
30 of reclamation of delinquent acres.

31

1 Section 12. Subsections (2) and (4) of section
2 403.085, Florida Statutes, are amended to read:

3 403.085 Sanitary sewage disposal units; advanced and
4 secondary waste treatment; industrial waste, ocean outfall,
5 inland outfall, or disposal well waste treatment.--

6 (2) Sanitary sewage disposal treatment plants which
7 discharge effluent through ocean outfalls or disposal wells ~~on~~
8 ~~July 1, 1970~~, shall provide for secondary waste treatment and,
9 in addition thereto, advanced waste treatment as deemed
10 necessary and ordered by the former Department of
11 Environmental Regulation ~~by January 3, 1974~~. Failure to
12 conform ~~by said date~~ shall be punishable by a fine of \$500 for
13 each 24-hour day or fraction thereof that such failure is
14 allowed to continue thereafter.

15 (4) Industrial plants or facilities which discharge
16 industrial waste of any kind through ocean outfalls, inland
17 outfalls, or disposal wells ~~on July 1, 1971~~, shall provide for
18 secondary waste treatment or such other waste treatment as
19 deemed necessary and ordered ~~by January 1, 1973~~, by the former
20 Department of Environmental Regulation. Failure to conform ~~by~~
21 ~~said date~~ shall be punishable as provided in s. 403.161(2).

22 Section 13. Subsection (2) of section 403.086, Florida
23 Statutes, is amended to read:

24 403.086 Sewage disposal facilities; advanced and
25 secondary waste treatment.--

26 (2) Any facilities for sanitary sewage disposal
27 ~~existing on July 1, 1971~~, shall provide for secondary waste
28 treatment ~~by January 1, 1973~~, and, in addition thereto,
29 advanced waste treatment as deemed necessary and ordered by
30 ~~the former Department of Pollution Control, its successor, the~~
31 ~~former Department of Environmental Regulation, or its~~

1 ~~successor~~, the Department of Environmental Protection. Failure
2 to conform ~~by said date~~ shall be punishable by a civil penalty
3 of \$500 for each 24-hour day or fraction thereof that such
4 failure is allowed to continue thereafter.

5 Section 14. Paragraph (c) of subsection (11) of
6 section 403.0872, Florida Statutes, is amended to read:

7 403.0872 Operation permits for major sources of air
8 pollution; annual operation license fee.--Provided that
9 program approval pursuant to 42 U.S.C. s. 7661a has been
10 received from the United States Environmental Protection
11 Agency, beginning January 2, 1995, each major source of air
12 pollution, including electrical power plants certified under
13 s. 403.511, must obtain from the department an operation
14 permit for a major source of air pollution under this section,
15 which is the only department operation permit for a major
16 source of air pollution required for such source. Operation
17 permits for major sources of air pollution, except general
18 permits issued pursuant to s. 403.814, must be issued in
19 accordance with the following procedures and in accordance
20 with chapter 120; however, to the extent that chapter 120 is
21 inconsistent with the provisions of this section, the
22 procedures contained in this section prevail:

23 (11) Commencing in 1993, each major source of air
24 pollution permitted to operate in this state must pay between
25 January 15 and March 1 of each year, upon written notice from
26 the department, an annual operation license fee in an amount
27 determined by department rule. The annual operation license
28 fee shall be terminated immediately in the event the United
29 States Environmental Protection Agency imposes annual fees
30 solely to implement and administer the major source
31

1 air-operation permit program in Florida under 40 C.F.R. s.
2 70.10(d).

3 (c) An audit of the major stationary source
4 air-operation permit program must be conducted 2 years after
5 the United States Environmental Protection Agency has given
6 full approval of the program, ~~or by the end of 1996, whichever~~
7 ~~comes later,~~ to ascertain whether the annual operation license
8 fees collected by the department are used solely to support
9 any reasonable direct and indirect costs as listed in
10 paragraph (b). A program audit must be performed biennially
11 after the first audit.

12 Section 15. Section 403.08851, Florida Statutes, is
13 repealed.

14 Section 16. Paragraph (b) of subsection (6) of section
15 403.1826, Florida Statutes, is repealed.

16 Section 17. Section 403.221, Florida Statutes, is
17 repealed.

18 Section 18. Subsection (1) of section 403.7046,
19 Florida Statutes, is amended to read:

20 403.7046 Regulation of recovered materials.--

21 (1) ~~After January 1, 1994,~~ Any person who handles,
22 purchases, receives, recovers, sells, or is an end user of
23 recovered materials shall annually certify to the department
24 on forms provided by the department. The department may by
25 rule exempt from this requirement generators of recovered
26 materials, persons who handle or sell recovered materials as
27 an activity which is incidental to the normal primary business
28 activities of that person, or persons who handle, purchase,
29 receive, recover, sell, or are end users of recovered
30 materials in small quantities as defined by the department.
31 The department shall adopt rules for the certification of and

1 reporting by such persons and shall establish criteria for
2 revocation of such certification. Prior to the adoption of
3 such rules, the department shall appoint a technical advisory
4 committee of no more than nine persons, including, at a
5 minimum, representatives of the Florida Association of
6 Counties, the Florida League of Cities, the Florida Recyclers
7 Association, and the Florida Chapter of the National Solid
8 Waste Management Association, to aid in the development of
9 such rules. Such rules shall be designed to elicit, at a
10 minimum, the amount and types of recovered materials handled
11 by registrants, and the amount and disposal site, or name of
12 person with whom such disposal was arranged, of any solid
13 waste generated by such facility. Such rules may provide for
14 the department to conduct periodic inspections. The
15 department may charge a fee of up to \$50 for each
16 registration, which shall be deposited into the Solid Waste
17 Management Trust Fund for implementation of the program.

18 Section 19. Subsection (10) of section 403.703,
19 Florida Statutes, is amended to read:

20 403.703 Definitions.--As used in this act, unless the
21 context clearly indicates otherwise, the term:

22 (10) "Solid waste management facility" means any solid
23 waste disposal area, volume reduction plant, transfer station,
24 materials recovery facility, or other facility, the purpose of
25 which is resource recovery or the disposal, recycling,
26 processing, or storage of solid waste. The term does not
27 include recovered materials processing facilities which meet
28 the requirements of s. 403.7046~~(4)~~, except the portion of such
29 facilities, if any, that is used for the management of solid
30 waste.

31

1 Section 20. Subsection (1) and paragraph (a) of
2 subsection (2) of section 403.7049, Florida Statutes, are
3 amended to read:

4 403.7049 Determination of full cost for solid waste
5 management; local solid waste management fees.--

6 ~~(1) Within 1 year of October 1, 1988, or within 1 year~~
7 ~~after rules are established by the department, whichever~~
8 ~~occurs later, Each county and each municipality shall~~
9 determine each year the full cost for solid waste management
10 within the service area of the county or municipality ~~for the~~
11 ~~1-year period beginning on October 1, 1988, and shall update~~
12 ~~the full cost every year thereafter.~~ The department shall
13 establish by rule the method for local governments to use in
14 calculating full cost. ~~Rulemaking shall be initiated and at~~
15 ~~least one public hearing shall be held by March 1, 1989.~~ In
16 developing the rule, the department shall examine the
17 feasibility of the use of an enterprise fund process by local
18 governments in operating their solid waste management systems.

19 ~~(2)(a) Within 1 year from October 1, 1988, Each~~
20 municipality shall establish a system to inform, no less than
21 once a year, residential and nonresidential users of solid
22 waste management services within the municipality's service
23 area of the user's share, on an average or individual basis,
24 of the full cost for solid waste management as determined
25 pursuant to subsection (1). Counties shall provide the
26 information required of municipalities only to residential and
27 nonresidential users of solid waste management services within
28 the county's service area that are not served by a
29 municipality. Municipalities shall include costs charged to
30 them or persons contracting with them for disposal of solid
31

1 waste in the full cost information provided to residential and
2 nonresidential users of solid waste management services.

3 Section 21. Paragraph (a) of subsection (4) and
4 subsection (18) of section 403.706, Florida Statutes, are
5 amended to read:

6 403.706 Local government solid waste
7 responsibilities.--

8 (4)(a) A county's solid waste management and recycling
9 programs shall be designed to provide for sufficient reduction
10 of the amount of solid waste generated within the county and
11 the municipalities within its boundaries in order to meet
12 goals for the reduction of municipal solid waste prior to the
13 final disposal or the incineration of such waste at a solid
14 waste disposal facility. The goals shall provide, at a
15 minimum, that the amount of municipal solid waste that would
16 be disposed of within the county and the municipalities within
17 its boundaries is reduced by at least 30 percent ~~by the end of~~
18 ~~1994~~. In determining whether the municipal solid waste
19 reduction goal established by this subsection has been
20 achieved, no more than one-half of the goal may be met with
21 yard trash, white goods, construction and demolition debris,
22 and tires that are removed from the total amount of municipal
23 solid waste. However, if a county that is a special district
24 created by chapter 67-764, Laws of Florida, demonstrates that
25 yard trash, construction and demolition debris, white goods,
26 and waste tires comprise more than 50 percent of the municipal
27 solid waste generated in the county and municipalities within
28 its boundaries, the county may meet the reduction goal
29 established by this subsection by reducing the Class I
30 municipal solid waste generated in the county and
31 municipalities within its boundaries at a rate equal to the

1 average rate Class I municipal solid waste is reduced in the
2 20 most populous counties, as determined by the department for
3 the previous reporting period. As used in this subsection,
4 "Class I municipal solid waste" means municipal solid waste
5 other than yard trash, construction and demolition debris,
6 white goods, and waste tires.

7 (18) ~~On and after July 1, 1989,~~Each operator of a
8 solid waste management facility owned or operated by or on
9 behalf of a county or municipality, ~~except existing facilities~~
10 ~~which will not be in use 1 year after October 1, 1988,~~shall
11 weigh all solid waste when it is received. The scale used to
12 measure the solid waste shall conform to the requirements of
13 chapter 531 and any rules promulgated thereunder.

14 Section 22. Subsection (1) of section 403.707, Florida
15 Statutes, is amended to read:

16 403.707 Permits.--

17 (1) No solid waste management facility may be
18 operated, maintained, constructed, expanded, modified, or
19 closed without an appropriate and currently valid permit
20 issued by the department. ~~Effective October 1, 1989,~~Solid
21 waste construction permits issued under this section may
22 include any permit conditions necessary to achieve compliance
23 with the recycling requirements of this act. The department
24 shall pursue reasonable timeframes for closure and
25 construction requirements, considering pending federal
26 requirements and implementation costs to the permittee. The
27 department shall adopt a rule establishing performance
28 standards for construction and closure of solid waste
29 management facilities. The standards shall allow flexibility
30 in design and consideration for site-specific characteristics.

31

1 Section 23. Subsections (2) and (9) of section
2 403.708, Florida Statutes, are amended to read:

3 403.708 Prohibition; penalty.--

4 (2) ~~After January 1, 1989,~~No beverage shall be sold
5 or offered for sale within the state in a beverage container
6 designed and constructed so that the container is opened by
7 detaching a metal ring or tab.

8 (9) No person shall, ~~on or after October 1, 1990,~~
9 distribute, sell, or expose for sale in this state any product
10 packaged in a container or packing material manufactured with
11 fully halogenated chlorofluorocarbons (CFC). Producers of
12 containers or packing material manufactured with
13 chlorofluorocarbons (CFC) are urged to introduce alternative
14 packaging materials which are environmentally compatible.

15 Section 24. Subsection (3) of section 403.716, Florida
16 Statutes, is amended to read:

17 403.716 Training of operators of solid waste
18 management and other facilities.--

19 (3) A person may not perform the duties of an operator
20 of a landfill ~~after July 1, 1991,~~ or perform the duties of an
21 operator of a waste-to-energy facility, biomedical waste
22 incinerator, or mobile soil thermal treatment unit or facility
23 ~~after July 1, 1994,~~ unless she or he has completed an operator
24 training course approved by the department or she or he has
25 qualified as an interim operator in compliance with
26 requirements established by the department by rule. An owner
27 of a landfill, waste-to-energy facility, biomedical waste
28 incinerator, or mobile soil thermal treatment unit or facility
29 may not employ any person to perform the duties of an operator
30 unless such person has completed an approved landfill,
31 waste-to-energy facility, biomedical waste incinerator, or

1 mobile soil thermal treatment unit or facility operator
2 training course, as appropriate, or has qualified as an
3 interim operator in compliance with requirements established
4 by the department by rule. The department may establish by
5 rule operator training requirements for other solid waste
6 management facilities and facility operators.

7 Section 25. Subsections (2), (3), and (4) of section
8 403.7186, Florida Statutes, are amended to read:

9 403.7186 Environmentally sound management of
10 mercury-containing devices and lamps.--

11 (2) PROHIBITION ON INCINERATION OR DISPOSAL OF
12 MERCURY-CONTAINING DEVICES.--Mercury-containing devices may
13 not be disposed of or incinerated in any manner prohibited by
14 this section or by the rules of the department promulgated
15 under this section. ~~After July 1, 1994,~~If the secretary of
16 the department determines that sufficient recycling capacity
17 exists to recycle mercury-containing devices generated in the
18 state, the secretary may, by rule, designate regions of the
19 state in which a person shall not place such a device that was
20 purchased for use or used by a government agency or an
21 industrial or commercial facility in a mixed solid waste
22 stream. ~~After January 1, 1996,~~A mercury-containing device
23 shall not knowingly be incinerated or disposed of in a
24 landfill.

25 (3) PROHIBITION ON INCINERATION OF SPENT LAMPS.--~~After~~
26 ~~July 1, 1994,~~Spent mercury-containing lamps shall not
27 knowingly be incinerated in any municipal or other
28 incinerator. This subsection shall not apply to incinerators
29 that are permitted to operate under state or federal hazardous
30 waste regulations.

31 (4) WASTE MANAGEMENT REQUIREMENT FOR SPENT LAMPS.--

1 (a) ~~Effective July 1, 1994,~~Any person owning or
2 operating an industrial, institutional, or commercial facility
3 in this state or providing outdoor lighting for public places
4 in this state, including streets and highways, that disposes
5 of more than 10 spent lamps per month shall arrange for
6 disposal of such lamps in permitted lined landfills or at
7 appropriately permitted reclamation facilities.

8 (b) ~~After July 1, 1994,~~The department may, by rule,
9 designate regions of the state wherein any person owning or
10 operating an industrial, institutional, or commercial facility
11 in such a designated region, or providing lighting for public
12 places in such designated region, including streets and
13 highways, that disposes of more than 10 spent lamps per month
14 shall arrange for disposal of such lamps at appropriately
15 permitted reclamation facilities; provided, however, that
16 before such rule is adopted, the secretary of the department
17 first determines that appropriately permitted reclamation
18 facilities are reasonably available and afford sufficient
19 recycling capacity.

20 Section 26. Subsection (3) of section 403.7191,
21 Florida Statutes, is amended to read:

22 403.7191 Toxics in packaging.--

23 (3) PROHIBITIONS; SCHEDULE FOR REMOVAL OF INCIDENTAL
24 AMOUNTS.--Except as provided in subsection (4), a manufacturer
25 or distributor may not sell a package or packaging component,
26 and a manufacturer or distributor of products shall not offer
27 for sale or promotional purposes in this state, any package or
28 any packaging component with a total concentration of lead,
29 cadmium, mercury, and hexavalent chromium that exceeds ~~after~~
30 ~~July 1, 1996,~~100 parts per million by weight (.01 percent).
31

1 Section 27. Section 403.7192, Florida Statutes, is
2 amended to read:

3 403.7192 Batteries; requirements for consumer,
4 manufacturers, and sellers; penalties.--

5 (1) As used in this section, the term:

6 (a) "Cell" means a galvanic or voltaic device weighing
7 25 pounds or less consisting of an enclosed or sealed
8 container containing a positive and negative electrode in
9 which one or both electrodes consist primarily of cadmium or
10 lead and which container contains a gel or liquid starved
11 electrolyte.

12 (b) "Cell manufacturer" means an entity which
13 manufactures cells in the United States; or imports into the
14 United States cells or units for which no unit management
15 program has been put into effect by the actual manufacturer of
16 the cell or unit.

17 (c) "Marketer" means any person who manufactures,
18 sells, distributes, assembles, or affixes a brand name or
19 private label or licenses the use of a brand name on a unit or
20 rechargeable product. Marketer does not include a person
21 engaged in the retail sale of a unit or rechargeable product.

22 (d) "Rechargeable battery" means any small,
23 nonvehicular, rechargeable nickel-cadmium or sealed lead-acid
24 battery, or battery pack containing such a battery, weighing
25 less than 25 pounds and not used for memory backup.

26 (e) "Unit" means a cell, a rechargeable battery, or a
27 rechargeable product with nonremovable rechargeable batteries.

28 (f) "Unit management program" means a program or
29 system for the collection, recycling, or disposal of units put
30 in place by a marketer in accordance with this section.

31

1 (2)(a) ~~After July 1, 1993,~~A person may not
2 distribute, sell, or offer for sale in this state an
3 alkaline-manganese or zinc-carbon battery that contains more
4 than 0.025 percent mercury by weight. ~~After January 1, 1996,~~
5 A person may not distribute, sell, or offer for sale in this
6 state an alkaline-manganese or zinc-carbon battery that
7 contains any intentionally introduced mercury and more than
8 0.0004 percent mercury by weight.

9 (b) For any alkaline-manganese battery resembling a
10 button or coin in size and shape, the limitation shall be 25
11 milligrams of mercury.

12 (c) ~~After October 1, 1993,~~A person may not
13 distribute, sell, or offer for sale in this state a consumer
14 button dry cell battery containing a mercuric oxide electrode
15 or a product containing such a battery.

16 (d) The secretary of the department may exempt a
17 specific type of battery from this subsection if there is not
18 a battery that meets those requirements and that reasonably
19 can be substituted for the battery for which the exemption is
20 sought.

21 (3)(a) ~~After January 1, 1994,~~A person may not
22 knowingly place in a mixed solid waste stream a dry cell
23 battery that uses a mercuric oxide electrode or a product
24 containing such a battery, and that was purchased for use or
25 used by a consumer or by a government, industrial,
26 communications, or medical facility that is a conditionally
27 exempt small quantity generator of hazardous waste under 40
28 C.F.R. s. 261.5.

29 (b) ~~Eighteen months after the effective date of this~~
30 ~~subsection, or October 1, 1995, whichever is later,~~A person
31 may not knowingly place in a mixed solid waste stream a

1 rechargeable battery, or a product containing such a
2 rechargeable battery, which was purchased for use or used by a
3 consumer or by a government, industrial, commercial,
4 communications, or medical facility that is a conditionally
5 exempt small quantity generator of hazardous waste under 40
6 C.F.R. s. 261.5.

7 (c) Each government, industrial, commercial,
8 communications, or medical facility shall collect and
9 segregate its batteries to which the prohibitions in
10 paragraphs (a) and (b) apply and send each segregated
11 collection of batteries back to a collection site designated
12 by the manufacturer or distributor in the case of mercuric
13 oxide batteries, to a collection site designated by a marketer
14 or cell manufacturer of rechargeable batteries, or the
15 products powered by nonremovable batteries, or to a facility
16 permitted to dispose of those batteries.

17 (4) A cell manufacturer or marketer shall not sell or
18 offer for sale in this state any consumer product or
19 nonconsumer product that is ~~manufactured on or after October~~
20 ~~1, 1993, and that is~~ powered by a rechargeable battery unless:

21 (a) In the case of consumer products, the battery can
22 be easily removed by the consumer, or the battery is contained
23 in a battery pack that is separate from the product and can be
24 easily removed from the product.

25 (b) In the case of nonconsumer products, the battery
26 can be removed or is contained in a battery pack that is
27 separate from the product.

28 (c) The product or the battery, or the package in the
29 case of a consumer product, is labeled with a recycling symbol
30 and includes, as an indication of the chemical composition of
31

1 the battery, the term "Cd" for nickel-cadmium batteries or
2 "Pb" for small sealed lead batteries.

3 (d) The instruction manual for the product or, in the
4 case of a consumer product, the package containing the product
5 states that the sealed lead or nickel-cadmium battery must be
6 recycled or disposed of properly.

7 (5) The secretary of the department may authorize the
8 sale of a consumer or nonconsumer product that does not comply
9 with paragraphs (4)(a) and (b), if the secretary finds that+

10 ~~(a) The product was available for sale on or before~~
11 ~~May 12, 1993, and the product cannot reasonably be redesigned~~
12 ~~and manufactured by January 1, 1994; or,~~

13 ~~(b) the design of the product, to comply with the~~
14 ~~requirements of this subsection, would result in significant~~
15 ~~danger to public health and safety.~~

16 (6) ~~By October 1, 1993, Manufacturers and distributors~~
17 ~~of mercuric oxide batteries and products containing these~~
18 ~~batteries and, 6 months after the report required in~~
19 ~~paragraph (7)(b) is due to be presented to the department,~~
20 ~~marketers of rechargeable batteries or the products powered by~~
21 ~~such batteries, excluding those used solely for memory, whose~~
22 ~~batteries and products are sold and distributed in this state~~
23 ~~and that are subject to the requirements of subsection (3),~~
24 ~~must:~~

25 (a) Implement a unit management program, other than a
26 local government curbside program and other local government
27 collection system, unless the local government agrees
28 otherwise, through which the discarded batteries or products
29 powered by nonremovable batteries may be returned to
30 designated collection sites and submit this information to the
31 department. The unit management program must be accessible for

1 consumers or local governments collecting batteries or
2 products from consumers, for returning the discarded batteries
3 or products. In addition to other requirements which cell
4 manufacturers have as marketers, cell manufacturers shall
5 accept rechargeable batteries collected in this state. Cell
6 manufacturers shall accept rechargeable batteries returned to
7 them of the same general type, including differing brands, not
8 to exceed the same annual rate as batteries manufactured by
9 them are sold in this state. Cell manufacturers shall have
10 the sole responsibility for reclamation and disposal of
11 rechargeable batteries returned to them.

12 (b) Clearly inform each purchaser of the prohibition
13 on the disposal in the solid waste stream of these batteries
14 and products powered by nonremovable batteries and of the
15 system for return available to the purchaser for their proper
16 collection, transportation, recycling, or disposal. A
17 telephone number must be provided to each final purchaser of
18 the batteries, or products powered by these batteries, so that
19 the final purchasers can call to get information on returning
20 the discarded batteries or products for recycling or proper
21 disposal. The telephone number must also be provided to the
22 department.

23 (c) Accept waste batteries or products containing
24 these batteries returned to their designated collection sites
25 as allowed by federal, state, and local laws and regulations.

26 (d) Ensure that each battery is clearly identifiable
27 as to the type of electrode used in the battery.

28 ~~(7)(a) Twelve months after the effective date of this~~
29 ~~subsection, cell manufacturers and marketers of rechargeable~~
30 ~~batteries or products powered by rechargeable batteries which~~
31 ~~are sold in the state shall implement pilot projects for the~~

1 ~~collection and transportation of these batteries and products.~~
2 ~~Pilot projects implemented in other jurisdictions and lasting~~
3 ~~for at least 18 months may be used to satisfy the requirements~~
4 ~~of this subsection. Marketers and cell manufacturers may~~
5 ~~satisfy the requirements of this subsection individually or as~~
6 ~~part of a representative organization of marketers and cell~~
7 ~~manufacturers. Representative organizations of manufacturers~~
8 ~~shall supply to the department a list of those organization~~
9 ~~members for whom the association is conducting the pilot~~
10 ~~program to satisfy the requirements of this subsection.~~

11 (b) On or before October 7, 1997, and annually
12 thereafter, for a period of 3 years ~~Twenty-five months after~~
13 ~~the effective date of this subsection, cell manufacturers and~~
14 ~~marketers or their representative organization shall report to~~
15 ~~the department the final results of the pilot projects and~~
16 ~~plans for the implementation of the requirements under~~
17 ~~subsection (6). The reports shall include estimates of the~~
18 ~~cadmium disposal reductions.~~ Representative organizations of
19 manufacturers shall supply to the department a list of those
20 organization members for whom the association is conducting
21 the unit management program achieved through the pilot
22 projects. Plans for implementation and the determination of
23 the reasonableness of those plans shall be based on the
24 results of the pilot programs.

25
26 ~~Annually thereafter, for a period of 3 years, they shall~~
27 ~~report on the results of their unit management programs as~~
28 ~~described in this subsection.~~

29 ~~(8) The effective date of subsections (1) and (2),~~
30 ~~paragraph (3)(a), and subsections (4), (5), and (6) for~~
31 ~~mercuric oxide batteries, and subsections (8), (10), and (11),~~

1 ~~shall be July 1, 1993. The effective date of paragraphs~~
2 ~~(3)(b) and (c) and subsection (6) for rechargeable batteries,~~
3 ~~and subsections (7) and (9), shall be upon final adoption by~~
4 ~~the United States Environmental Protection Agency of 40 C.F.R.~~
5 ~~part 273 as proposed in Federal Register, Volume 58, Number~~
6 ~~27, pp. 8101 et seq., February 11, 1993, and adoption by the~~
7 ~~department.~~

8 (8)~~(9)~~ Manufacturers and importers of mercuric oxide
9 batteries and cell manufacturers and marketers of rechargeable
10 batteries or products powered by these batteries that do not
11 comply with the requirements in subsection (6) ~~and paragraph~~
12 ~~(7)(a)~~ may not sell, distribute, or offer for sale in this
13 state these batteries or products powered by these batteries.
14 Manufacturers or marketers may satisfy the requirements of
15 subsection (6) ~~and paragraph (7)(a)~~ individually, as part of a
16 representative organization of manufacturers, or by
17 contracting with private or government parties. Any such
18 contractual arrangements may include appointment of agents,
19 allocation of costs and duties, and such indemnifications as
20 the parties deem appropriate.

21 (9)~~(10)~~ Any person who violates any provision of this
22 section commits a misdemeanor of the second degree, punishable
23 as provided in s. 775.082 or s. 775.083. A manufacturer or
24 distributor who violates such provision is subject to a
25 minimum fine of \$100 per violation.

26 (10)~~(11)~~ In an enforcement action under this section
27 in which the state prevails, the state may recover reasonable
28 administrative expenses, court costs, and attorney's fees
29 incurred to take the enforcement action, in an amount to be
30 determined by the court.

31

1 Section 28. Section 403.7199, Florida Statutes, is
2 repealed.

3 Section 29. Subsection (5) of section 403.724, Florida
4 Statutes, is amended to read:

5 403.724 Financial responsibility.--

6 (5) Hazardous waste facilities ~~in operation on October~~
7 ~~1, 1980,~~ shall, within 1 year after the effective date of
8 rules regarding financial responsibility pursuant to this act,
9 establish financial responsibility or have the requirement
10 waived.

11 Section 30. Subsection (2) of section 403.7265,
12 Florida Statutes, is amended to read:

13 403.7265 Local hazardous waste collection program.--

14 (2) ~~By March 1, 1991,~~The department shall develop a
15 statewide local hazardous waste management plan which will
16 ensure comprehensive collection and proper management of
17 hazardous waste from small quantity generators and household
18 hazardous waste in Florida. The plan shall address, at a
19 minimum, a network of local collection centers, transfer
20 stations, and expanded hazardous waste collection route
21 services. The plan shall assess the need for additional
22 compliance verification inspections, enforcement, and
23 penalties. The plan shall include a strategy, timetable, and
24 budget for implementation.

25 Section 31. Subsection (1) of section 403.767, Florida
26 Statutes, is amended to read:

27 403.767 Certification of used oil transporters.--

28 (1) Any person who transports over public highways
29 ~~after January 1, 1990,~~more than 500 gallons annually of used
30 oil must be a certified transporter. This subsection does not
31 apply to:

1 (a) Local governments or private solid waste haulers
2 under contract to a local government that transport used oil
3 collected from households to a public used oil collection
4 center.

5 (b) Persons who transport less than 55 gallons of used
6 oil at one time that is stored in tightly closed containers
7 which are secured in a totally enclosed section of the
8 transport vehicle.

9 (c) Persons who transport their own used oil, which is
10 generated at their own noncontiguous facilities, to their own
11 central collection facility for storage, processing, or energy
12 recovery. However, such persons shall provide the same proof
13 of liability insurance or other means of financial
14 responsibility for liability which may be incurred in the
15 transport of used oil as provided by certified transporters
16 under subsection (3).

17 Section 32. Subsection (2) of section 403.769, Florida
18 Statutes, is amended to read:

19 403.769 Permits for used oil processing and rerefining
20 facilities.--

21 (2) ~~By January 1, 1990,~~The department shall develop a
22 permitting system for used oil processing facilities after
23 reviewing and considering the applicability of the permit
24 system for hazardous waste treatment, storage, or disposal
25 facilities.

26 Section 33. Sections 533.01, 533.02, 533.03, 533.04,
27 533.05, and 533.06, Florida Statutes, are repealed.

28 Section 34. This act shall take effect July 1, 2000.
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LEGISLATIVE SUMMARY

Repeals various statutory provisions that have become
obsolete, have had their effect, have served their
purpose, or have been impliedly repealed or superseded.