

HB 1137

2004

A bill to be entitled

An act relating to waste management; creating s. 403.7047, F.S.; providing for regulation of recovered construction and demolition materials; providing for annual certification by the Department of Environmental Protection of an owner or operator of a materials recovery facility; providing criteria for certification; providing for rules; providing for fees; prohibiting local governments from enacting ordinances or entering into contracts that prevent certain materials from being delivered to a certified materials recovery facility; providing an exception; authorizing local governments to require source separation under certain circumstances; authorizing local governments to establish a registration and reporting process relating to the handling of construction and demolition materials; providing conditions for franchise agreements and fees; providing a definition; requiring compliance with the provisions of s. 403.7047, F.S., by a date certain; providing an effective date.

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

Section 1. Section 403.7047, Florida Statutes, is created to read:

403.7047 Regulation of recovered construction and demolition materials.--

(1) Any owner or operator of a materials recovery facility that accepts construction and demolition debris for

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30 processing may annually apply for certification with the  
31 department pursuant to this section. The department shall certify  
32 such a facility if the applicant demonstrates that the facility  
33 meets all applicable permitting requirements, that it weighs all  
34 incoming waste using scales that conform to the requirements of  
35 chapter 531 and any rules adopted under that chapter, and that at  
36 least an appropriate percentage of the construction and  
37 demolition materials accepted at the facility has been or will be  
38 sold, used, or reused within 1 year. The department may adopt  
39 rules to implement this subsection, which may include  
40 registration fees and reporting requirements necessary to  
41 demonstrate compliance, but shall not delay processing of  
42 applications for certification pending the adoption of these  
43 rules. Until such rules are adopted, "appropriate percentage"  
44 means 50 percent; however, the department may by rule establish a  
45 different percentage or may establish different percentages based  
46 upon the types of waste accepted at a facility.

47 (2) A local government may not enact any ordinance or  
48 enter into any contract that prevents the holder of a building  
49 permit or a demolition permit from entering into a contract to  
50 have construction and demolition debris collected, transported,  
51 processed, or received if the materials are or will be delivered  
52 to a materials recovery facility that is certified under this  
53 section.

54 (3) Except as may be authorized by subsection (6), a local  
55 government may not enact any ordinance that prevents a materials  
56 recovery facility that is certified under this section from  
57 accepting construction and demolition debris from the holder of  
58 a building permit or a demolition permit, or from a transporter

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59 collecting the material from the holder of a building permit or  
60 a demolition permit.

61 (4) A local government may require that various types of  
62 recovered construction and demolition materials be separated  
63 from each other at the permitted building or demolition site  
64 only after it has determined that source separation at the  
65 permitted building or demolition site is cost-effective when  
66 compared to other collection and recycling methods.

67 (5) A local government may establish a registration  
68 process whereby persons handling construction and demolition  
69 materials must register with the local government before  
70 engaging in business within the jurisdiction of the local  
71 government. The local government may establish a reporting  
72 process consistent with that established by the department  
73 pursuant to this section or s. 403.707. The local government may  
74 charge a registration fee commensurate with and no greater than  
75 the cost incurred by the local government in operating its  
76 registration program. The local government may enter into a  
77 nonexclusive franchise for the collection, transportation, and  
78 processing of construction and demolition materials. A local  
79 government may not require any person to enter into a franchise  
80 agreement in order to purchase, collect, transport, process, or  
81 receive construction and demolition materials if such materials  
82 are or will be delivered to a materials recovery facility  
83 certified under this section. The local government may impose a  
84 franchise fee for the collection of construction and demolition  
85 materials, provided that the fee is expressed as a rate and  
86 provided that such rate is no greater than that imposed by the  
87 local government on other solid waste collected within the local

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88 government's jurisdiction. For the purpose of this section,  
 89 "rate" means a percentage of revenue derived from the collection  
 90 of such materials.

91 (6) Nothing in this section prohibits a local government  
 92 from enacting ordinances designed to protect the public's  
 93 general health, safety, and welfare.

94 (7) A local government may not adopt any ordinance  
 95 relating to construction and demolition materials collection,  
 96 processing, or recovery that does not comply with this section.  
 97 Any ordinance in effect on the effective date of this act that  
 98 does not comply with this section must be amended to comply with  
 99 this section within 90 days after the effective date of this  
 100 act. Any contract in effect on the effective date of this act  
 101 that does not comply with this section must be amended to comply  
 102 with this section upon renewal.

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