

CHAMBER ACTION

1 The Transportation Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to construction and demolition debris
7 recycling; amending s. 403.703, F.S.; revising the
8 definition of "recovered materials" to include wood and
9 concrete; amending s. 403.7046, F.S.; providing for
10 construction and demolition debris to be considered
11 recovered material under certain circumstances; providing
12 for certain persons to be considered certified recovered
13 materials dealers; requiring construction and demolition
14 materials to be weighed prior to unloading, processing,
15 and transporting; requiring owners and operators of
16 materials recovery facilities to provide certain
17 documentation for any solid waste generated or transported
18 from the facilities; providing applicability to certain
19 existing franchise agreements and contracts; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

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24 Section 1. Subsection (7) of section 403.703, Florida
25 Statutes, is amended to read:

26 403.703 Definitions.--As used in this act, unless the
27 context clearly indicates otherwise, the term:

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

37 Section 2. Subsection (3) of section 403.7046, Florida
38 Statutes, is amended, and subsection (4) is added to said
39 section, to read:

40 403.7046 Regulation of recovered materials.--

41 (3) Except as otherwise provided in this section or
42 pursuant to a special act in effect on or before January 1,
43 1993, a local government may not require a commercial
44 establishment that generates source-separated recovered
45 materials to sell or otherwise convey its recovered materials to
46 the local government or to a facility designated by the local
47 government, nor may the local government restrict such a
48 generator's right to sell or otherwise convey such recovered
49 materials to any properly certified recovered materials dealer
50 who has satisfied the requirements of this section. A local
51 government may not enact any ordinance that prevents such a

52 dealer from entering into a contract with a commercial
53 establishment to purchase, collect, transport, process, or
54 receive source-separated recovered materials.

55 (a) The local government may require that the recovered
56 materials generated at the commercial establishment be source
57 separated at the premises of the commercial establishment.

58 (b) Prior to engaging in business within the jurisdiction
59 of the local government, a recovered materials dealer must
60 provide the local government with a copy of the certification
61 provided for in this section. In addition, the local government
62 may establish a registration process whereby a recovered
63 materials dealer must register with the local government prior
64 to engaging in business within the jurisdiction of the local
65 government. Such registration process is limited to requiring
66 the dealer to register its name, including the owner or operator
67 of the dealer, and, if the dealer is a business entity, its
68 general or limited partners, its corporate officers and
69 directors, its permanent place of business, evidence of its
70 certification under this section, and a certification that the
71 recovered materials will be processed at a recovered materials
72 processing facility satisfying the requirements of this section.
73 All counties, and municipalities whose population exceeds 35,000
74 according to the population estimates determined pursuant to s.
75 186.901, may establish a reporting process which shall be
76 limited to the regulations, reporting format, and reporting
77 frequency established by the department pursuant to this
78 section, which shall, at a minimum, include requiring the dealer
79 to identify the types and approximate amount of recovered

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80 materials collected, recycled, or reused during the reporting
81 period; the approximate percentage of recovered materials
82 reused, stored, or delivered to a recovered materials processing
83 facility or disposed of in a solid waste disposal facility; and
84 the locations where any recovered materials were disposed of as
85 solid waste. Information reported under this subsection which,
86 if disclosed, would reveal a trade secret, as defined in s.
87 812.081(1)(c), is confidential and exempt from the provisions of
88 s. 24(a), Art. I of the State Constitution and s. 119.07(1). The
89 local government may charge the dealer a registration fee
90 commensurate with and no greater than the cost incurred by the
91 local government in operating its registration program.
92 Registration program costs are limited to those costs associated
93 with the activities described in this paragraph. Any reporting
94 or registration process established by a local government with
95 regard to recovered materials shall be governed by the
96 provisions of this section and department rules promulgated
97 pursuant thereto.

98 (c) A local government may establish a process in which
99 the local government may temporarily or permanently revoke the
100 authority of a recovered materials dealer to do business within
101 the local government if the local government finds the recovered
102 materials dealer, after reasonable notice of the charges and an
103 opportunity to be heard by an impartial party, has consistently
104 and repeatedly violated state or local laws, ordinances, rules,
105 and regulations.

106 (d) In addition to any other authority provided by law, a
107 local government is hereby expressly authorized to prohibit a

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108 person or entity not certified under this section from doing
 109 business within the jurisdiction of the local government; to
 110 enter into a nonexclusive franchise or to otherwise provide for
 111 the collection, transportation, and processing of recovered
 112 materials at commercial establishments, provided that a local
 113 government may not require a certified recovered materials
 114 dealer to enter into such franchise agreement in order to enter
 115 into a contract with any commercial establishment located within
 116 the local government's jurisdiction to purchase, collect,
 117 transport, process, or receive source-separated recovered
 118 materials; and to enter into an exclusive franchise or to
 119 otherwise provide for the exclusive collection, transportation,
 120 and processing of recovered materials at single-family or
 121 multifamily residential properties.

122 (e) Nothing in this section shall prohibit a local
 123 government from enacting ordinances designed to protect the
 124 public's general health, safety, and welfare.

125 (f) As used in this section:

126 1. "Commercial establishment" means a property or
 127 properties zoned or used for commercial or industrial uses, or
 128 used by an entity exempt from taxation under s. 501(c)(3) of the
 129 Internal Revenue Code, and excludes property or properties zoned
 130 or used for single-family residential or multifamily residential
 131 uses.

132 2. "Local government" means a county or municipality.

133 3. "Certified recovered materials dealer" means a dealer
 134 certified under this section.

135 (g) Solely for the purpose of this subsection, except for
 136 the provisions of paragraphs (b) and (c), construction and
 137 demolition debris that is collected and transported directly to
 138 a materials recovery facility as defined in s. 403.703(40) for
 139 the purpose of recycling is considered to be recovered material,
 140 and any person or entity handling such material in accordance
 141 with a department permit or other authorization shall be
 142 considered certified.

143 (h) For the purposes of this subsection, construction and
 144 demolition materials shall be weighed at the materials recovery
 145 facility prior to any unloading or processing. Any materials
 146 that are transported from such materials recovery facility must
 147 be weighed prior to transport. The owner or operator of a
 148 materials recovery facility that accepts or processes
 149 construction and demolition materials shall, upon the request of
 150 a local government, provide the following documentation for any
 151 solid waste generated or transported from the facility:

152 1. The amount and type of construction and demolition
 153 materials handled at the facility;

154 2. The amount of materials being disposed of and the
 155 disposal site location; or

156 3. The name of the person with whom such disposal was
 157 arranged.

158 (4) Notwithstanding any provision of this section to the
 159 contrary, any franchise agreement or contract granting exclusive
 160 collections for construction and demolition debris or recovered
 161 construction and demolition materials that is in existence may
 162 remain in effect until its expiration date.

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Section 3. This act shall take effect July 1, 2005.