



709114

LEGISLATIVE ACTION

Senate

.

House

.

.

Floor: 2/AD/2R

.

04/29/2009 02:29 PM

.

.

Senator Justice moved the following:

Senate Amendment

Delete lines 690 - 876

and insert:

Section 12. Section 376.30702, Florida Statutes, is amended to read:

376.30702 Contamination notification.—

(1) FINDINGS; INTENT; APPLICABILITY.—The Legislature finds and declares that when contamination is discovered by any person as a result of site rehabilitation activities conducted pursuant to the risk-based corrective action provisions found in s. 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701, or



709114

13 pursuant to an administrative or court order, it is in the
14 public's best interest that potentially affected persons be
15 notified of the existence of such contamination. Therefore,
16 persons discovering such contamination shall notify the
17 department and those identified under this section of the ~~such~~
18 discovery in accordance with the requirements of this section,
19 ~~and the department shall be responsible for notifying the~~
20 ~~affected public.~~ The Legislature intends for the provisions of
21 this section to govern the notice requirements for early
22 notification of the discovery of contamination.

23 (2) (a) INITIAL NOTICE OF CONTAMINATION BEYOND PROPERTY
24 BOUNDARIES.—If at any time during site rehabilitation conducted
25 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, ~~or~~ s.
26 376.30701, or an administrative or court order the person
27 responsible for site rehabilitation, the person's authorized
28 agent, or another representative of the person discovers from
29 laboratory analytical results that comply with appropriate
30 quality assurance protocols specified in department rules that
31 contamination as defined in applicable department rules exists
32 in any groundwater, surface water, or soil ~~medium~~ beyond the
33 boundaries of the property at which site rehabilitation was
34 initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,
35 ~~or~~ s. 376.30701, or an administrative or court order the person
36 responsible for site rehabilitation shall give actual notice as
37 soon as possible, but no later than 10 days from such discovery,
38 to the Division of Waste Management at the department's
39 Tallahassee office. The actual notice shall be provided on a
40 form adopted by department rule and mailed by certified mail,
41 return receipt requested. The person responsible for site



709114

42 rehabilitation shall simultaneously provide ~~mail~~ a copy of the
43 ~~such~~ notice to the appropriate department district office, and
44 the appropriate county health department, ~~and all known lessees~~
45 ~~and tenants of the source property.~~

46 (b) The notice shall include the following information:

47 1.(a) The location of the property at which site
48 rehabilitation was initiated pursuant to s. 376.3071(5), s.
49 376.3078(4), s. 376.81, ~~or~~ s. 376.30701, or an administrative or
50 court order and contact information for the person responsible
51 for site rehabilitation, the person's authorized agent, or
52 another representative of the person.

53 2.(b) A listing of all record owners of any real property,
54 ~~other than the property at which site rehabilitation was~~
55 ~~initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,~~
56 ~~or s. 376.30701~~, at which contamination has been discovered; the
57 parcel identification number for any such real property; the
58 owner's address listed in the current county property tax office
59 records; and the owner's telephone number. ~~The requirements of~~
60 ~~this paragraph do not apply to the notice to known tenants and~~
61 ~~lessees of the source property.~~

62 3.(c) Separate tables for ~~by medium~~, such as groundwater,
63 soil, and surface water which, ~~or sediment~~, that list sampling
64 locations identified on the vicinity map as provided in
65 subparagraph 4.; sampling dates; names of contaminants detected
66 above cleanup target levels; their corresponding cleanup target
67 levels; the contaminant concentrations; and whether the cleanup
68 target level is based on health, nuisance, organoleptic, or
69 aesthetic concerns.

70 4.(d) A vicinity map that shows each sampling location with



709114

71 corresponding laboratory analytical results pursuant to
72 subparagraph 3. and the date on which the sample was collected
73 and that identifies the property boundaries of the property at
74 which site rehabilitation was initiated pursuant to s.
75 376.3071(5), s. 376.3078(4), s. 376.81, ~~or~~ s. 376.30701, or an
76 administrative or court order and any the other properties at
77 which contamination has been discovered during such site
78 rehabilitation. If available, a contaminant plume map signed and
79 sealed by a Florida-licensed professional engineer or geologist
80 may be included with the vicinity map.

81 (3) DEPARTMENT'S NOTICE RESPONSIBILITIES.-

82 (a) After receiving the actual notice required under
83 subsection (2), the department shall notify the following
84 persons of such contamination:

85 1. The mayor, the chair of the county commission, or the
86 comparable senior elected official representing the affected
87 area.

88 2. The city manager, the county administrator, or the
89 comparable senior administrative official representing the
90 affected area.

91 3. The school district superintendent representing the
92 affected area.

93 4. The state senator, state representative, and United
94 States Representative representing the affected area and both
95 United States Senators.

96 5.a. All real property owners, presidents of any
97 condominium associations or sole owners of condominiums,
98 lessees, and tenants of record of the property at which site
99 rehabilitation is being conducted, if different from the person



709114

100 responsible for site rehabilitation;

101 b. All real property owners, presidents of any condominium
102 associations or sole owners of condominiums, lessees, and
103 tenants of record of any properties within a 500-foot radius of
104 each sampling point at which contamination is discovered, if
105 site rehabilitation was initiated pursuant to s. 376.30701 or an
106 administrative or court order; and

107 c. All real property owners, presidents of any condominium
108 associations or sole owners of condominiums, lessees, and
109 tenants of record of any properties within a 250-foot radius of
110 each sampling point at which contamination is discovered or any
111 properties identified on a contaminant plume map provided
112 pursuant to subparagraph (2)(b)4., if site rehabilitation was
113 initiated pursuant to s. 376.3071(5), s. 376.3078(4), or s.
114 376.81 or at or in connection with a permitted solid waste
115 management facility subject to a ground water monitoring plan.

116 (b)1. The notice provided to local government officials
117 shall be mailed by certified mail, return receipt requested, and
118 shall advise the local government of its responsibilities under
119 subsection (4).

120 2. The notice provided to real property owners, presidents
121 of any condominium associations or sole owners of condominiums,
122 lessees, and tenants of record may be delivered by certified
123 mail, return receipt requested, first-class mail, hand delivery,
124 or door-hanger.

125 (c) Within 30 days after receiving the actual notice
126 required under pursuant to subsection (2), or within 30 days of
127 the effective date of this act if the department already
128 possesses information equivalent to that required by the notice,



709114

129 the department shall verify that the person responsible for site
130 rehabilitation has complied with the notice requirements of this
131 section ~~send a copy of such notice, or an equivalent~~
132 ~~notification, to all record owners of any real property, other~~
133 ~~than the property at which site rehabilitation was initiated~~
134 ~~pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.~~
135 ~~376.30701, at which contamination has been discovered. If the~~
136 person responsible for site rehabilitation has not complied with
137 the notice requirements of this section, the department may
138 pursue enforcement as provided under this chapter and chapter
139 403.

140 (d)1. If the property at which contamination has been
141 discovered is the site of a school as defined in s. 1003.01, the
142 department shall mail ~~also send~~ a copy of the notice to the
143 superintendent ~~chair of the school board~~ of the school district
144 in which the property is located and direct the superintendent
145 ~~said school board~~ to provide actual notice annually to teachers
146 and parents or guardians of students attending the school during
147 the period of site rehabilitation.

148 2. If the property at which contamination has been
149 discovered is the site of a private K-12 school or a child care
150 facility as defined in s. 402.302, the department shall mail a
151 copy of the notice to the governing board, principal, or owner
152 of the school or child care facility and direct the governing
153 board, principal, or owner to provide actual notice annually to
154 teachers and parents or guardians of students or children
155 attending the school or child care facility during the period of
156 site rehabilitation.

157 3. After receiving the notice required under subsection



709114

158 (2), if any property within a 500-foot radius of the property at
159 which contamination has been discovered during site
160 rehabilitation pursuant to s. 376.30701 or an administrative or
161 court order is the site of a school as defined in s. 1003.01,
162 the department shall mail a copy of the notice to the
163 superintendent of the school district in which the property is
164 located and direct the superintendent to provide actual notice
165 annually to the principal of the school.

166 4. After receiving the notice required under subsection
167 (2), if any property within a 250-foot radius of the property at
168 which contamination has been discovered during site
169 rehabilitation pursuant to s. 376.3071(5), s. 376.3078(4), or s.
170 376.81 or at or in connection with a permitted solid waste
171 management facility subject to a ground water monitoring plan is
172 the site of a school as defined in s. 1003.01, the department
173 shall mail a copy of the notice to the superintendent of the
174 school district in which the property is located and direct the
175 superintendent to provide actual notice annually to the
176 principal of the school.

177 (e) Along with the copy of the notice ~~or its equivalent,~~
178 the department shall include a letter identifying sources of
179 additional information about the contamination and a telephone
180 number to which further inquiries should be directed. The
181 department may collaborate with the Department of Health to
182 develop such sources of information and to establish procedures
183 for responding to public inquiries about health risks associated
184 with contaminated sites.

185 (4) LOCAL GOVERNMENT'S NOTICE RESPONSIBILITIES.—Within 30
186 days after receiving the actual notice required under subsection



709114

187 (3), the local government shall mail a copy of the notice to the
188 president or comparable executive officer of each homeowners'
189 association or neighborhood association within the potentially
190 affected area as described in subsection (3).

191 (5)~~(4)~~ RULEMAKING AUTHORITY; RECOVERY OF COSTS OF
192 NOTIFICATION.—The department shall adopt rules and forms
193 pursuant to ss. 120.536(1) and 120.54 to implement the
194 requirements of this section and shall recover the costs of
195 postage, materials, and labor associated with notification from
196 the responsible party, except when site rehabilitation is
197 eligible for state-funded cleanup pursuant to the risk-based
198 corrective action provisions found in s. 376.3071(5) or s.
199 376.3078(4).