

1                                   A bill to be entitled  
 2           An act relating to qualified portable consumer fuel  
 3           containers; creating s. 768.1258, F.S.; providing  
 4           definitions; providing that manufacturers, sellers,  
 5           and suppliers of qualified portable consumer fuel  
 6           containers are not liable for injury, death, or loss,  
 7           subject to specified actions, and not responsible for  
 8           other relief relating to misuse of qualified portable  
 9           consumer fuel containers; providing exceptions;  
 10          providing for award of attorney fees in certain  
 11          circumstances; providing an effective date.

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

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 15           Section 1. Section 768.1258, Florida Statutes, is created  
 16          to read:

17           768.1258 Qualified portable consumer fuel containers.—

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

19           (a) "Misuse" means use of a qualified portable consumer  
 20 fuel container in a manner that is inconsistent with the  
 21 specifications and standards applicable to the container;  
 22 contrary to an instruction, caution, or warning provided by the  
 23 manufacturer or seller of the container; or determined to be  
 24 improper by a federal or state agency charged with protecting  
 25 consumers or insuring the safety of consumer products. The term  
 26 includes, but is not limited to, use of a qualified portable  
 27 consumer fuel container to apply gasoline or other fuel for  
 28 purposes of igniting or accelerating a fire.

29        (b) "Qualified portable consumer fuel container" means a  
30 portable consumer fuel container that has been tested and  
31 certified by an independent, accredited testing agency in  
32 compliance with the following:

33        1. Standards for portable consumer fuel containers issued  
34 by the American Society for Testing and Materials (ASTM), as  
35 applicable to the type of container: F852-08, F839-06, F2517-09,  
36 F926-07, or F976-08.

37        2. Any applicable state and federal mandates or standards  
38 set by recognized regulatory bodies.

39        (c) "Seller" means, with respect to a qualified portable  
40 consumer fuel container, a person lawfully engaged in the  
41 business of marketing, distributing, advertising, or selling the  
42 container in the regular course of the person's trade or  
43 business.

44        (2) Except as provided in subsection (3), with respect to  
45 any claim of injury, death, or loss to person or property  
46 arising out of, resulting from, or related to misuse of a  
47 qualified portable consumer fuel container, the manufacturer,  
48 seller, or supplier of such container is not liable for damages,  
49 restitution, or declaratory, injunctive, or other relief for  
50 such injury, death, or loss.

51        (3) The immunity from liability provided in subsection (2)  
52 does not apply if the manufacturer, seller, or supplier of the  
53 qualified portable consumer fuel container involved did any of  
54 the following and it, alone or in combination with any of the  
55 following, was the predominate proximate cause of the claim of  
56 injury, death, or loss:

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57        (a) The intentional misbranding of the qualified portable  
58 consumer fuel container involved.

59        (b) Any knowing and willful violation of state or federal  
60 law that applies to the qualified portable consumer fuel  
61 container involved.

62        (4) A party that prevails on a motion to dismiss an action  
63 under subsection (2) may recover reasonable attorney fees and  
64 costs that the party incurred in connection with the motion to  
65 dismiss.

66        Section 2. This act shall take effect July 1, 2013.