

By Senator Latvala

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

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

18 768.1258 Qualified portable consumer fuel containers.-

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

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

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

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

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

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

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

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

58       (a) The intentional misbranding of the qualified portable

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59 consumer fuel container involved.

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

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

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