

HB 787

2015

1 A bill to be entitled
2 An act relating to recycled and recovered materials;
3 amending s. 403.727, F.S.; exempting a person who
4 sells, transfers, or arranges for the transfer of
5 recycled and recovered materials from liability for
6 solid waste released or threatened to be released from
7 the receiving facility or site, under certain
8 circumstances; defining the term "recycled and
9 recovered materials"; providing retroactive
10 application under certain circumstances; providing an
11 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. Subsection (4) of section 403.727, Florida
16 Statutes, is amended, present subsection (8) of that section is
17 redesignated as subsection (9), and a new subsection (8) is
18 added to that section, to read:

19 403.727 Violations; defenses, penalties, and remedies.—

20 (4) In addition to any other liability under this chapter,
21 and subject only to the defenses set forth in subsections (5),
22 (6), ~~and~~ (7), and (8):

23 (a) The owner and operator of a facility;

24 (b) Any person who at the time of disposal of any
25 hazardous substance owned or operated any facility at which such
26 hazardous substance was disposed of;

27 (c) Any person who, by contract, agreement, or otherwise,
 28 arranged for disposal or treatment, or arranged with a
 29 transporter for transport for disposal or treatment, of
 30 hazardous substances owned or possessed by such person or by any
 31 other party or entity at any facility owned or operated by
 32 another party or entity and containing such hazardous
 33 substances; and

34 (d) Any person who accepts or has accepted any hazardous
 35 substances for transport to disposal or treatment facilities or
 36 sites selected by such person,

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 38 is liable for all costs of removal or remedial action incurred
 39 by the department under this section and damages for injury to,
 40 destruction of, or loss of natural resources, including the
 41 reasonable costs of assessing such injury, destruction, or loss
 42 resulting from the release or threatened release of a hazardous
 43 substance as defined in the Comprehensive Environmental
 44 Response, Compensation, and Liability Act of 1980, Pub. L. No.
 45 96-510.

46 (8) In order to promote the reuse and recycling of
 47 recovered materials and to remove potential impediments to
 48 recycling, notwithstanding ss. 376.308 and 403.727, a person who
 49 sells, transfers, or arranges for the transfer of recycled and
 50 recovered materials to a facility owned or operated by another
 51 person for the purpose of reclamation, recycling, manufacturing,
 52 or reuse of such materials is relieved from liability for solid

HB 787

2015

53 waste released or threatened to be released from the receiving
54 facility. This relief from liability does not apply if the
55 person fails to exercise reasonable care with respect to the
56 management and handling of the recycled and recovered materials,
57 or if the arrangement for reclamation, recycling, manufacturing,
58 or reuse of such materials was not reasonably expected to be
59 legitimate based on information generally available to the
60 person at the time of the arrangement. For the purpose of this
61 subsection, the term "recycled and recovered materials" means
62 scrap paper; scrap plastic; scrap glass; scrap textiles; scrap
63 rubber, other than whole tires; scrap metal; or spent lead-acid
64 or nickel-cadmium batteries or other spent batteries. The term
65 includes minor amounts of material incident to or adhering to
66 the scrap material as a result of its normal and customary use
67 before becoming scrap. The term does not include hazardous
68 waste. This subsection applies to causes of action accruing on
69 or after July 1, 2015, and applies retroactively to causes of
70 action accruing before July 1, 2015, for which a lawsuit has not
71 been filed.

72 Section 2. This act shall take effect July 1, 2015.