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CS/HB 787

2015 Legislature

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 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 hazardous substances released or threatened to be
 7 released from the receiving facility or site, under
 8 certain 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:

14
 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;

ENROLLED

CS/HB 787

2015 Legislature

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,

37
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

ENROLLED

CS/HB 787

2015 Legislature

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

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