

By Senator Bean

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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.

12  
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 Statues, 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 hazardous  
25 substance owned or operated any facility at which such hazardous  
26 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

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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 solid  
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

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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.