

By the Committee on Environmental Preservation and Conservation;  
and Senator Bean

592-03277-15

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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           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.

12  
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 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

592-03277-15

2015912c1

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, a person who sells, transfers, or arranges for the  
49 transfer of recycled and recovered materials to a facility owned  
50 or operated by another person for the purpose of reclamation,  
51 recycling, manufacturing, or reuse of such materials is relieved  
52 from liability for hazardous substances released or threatened  
53 to be released from the receiving facility. This relief from  
54 liability does not apply if the person fails to exercise  
55 reasonable care with respect to the management and handling of  
56 the recycled and recovered materials, or if the arrangement for  
57 reclamation, recycling, manufacturing, or reuse of such  
58 materials was not reasonably expected to be legitimate based on

592-03277-15

2015912c1

59 information generally available to the person at the time of the  
60 arrangement. For the purpose of this subsection, the term  
61 "recycled and recovered materials" means scrap paper; scrap  
62 plastic; scrap glass; scrap textiles; scrap rubber, other than  
63 whole tires; scrap metal; or spent lead-acid or nickel-cadmium  
64 batteries or other spent batteries. The term includes minor  
65 amounts of material incident to or adhering to the scrap  
66 material as a result of its normal and customary use before  
67 becoming scrap. The term does not include hazardous waste. This  
68 subsection applies to causes of action accruing on or after July  
69 1, 2015, and applies retroactively to causes of action accruing  
70 before July 1, 2015, for which a lawsuit has not been filed.

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