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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/25/2017	.	
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The Committee on Appropriations (Galvano) recommended the following:

Senate Amendment (with title amendment)

Between lines 35 and 36

insert:

Section 1. Section 403.076, Florida Statutes, is created to read:

403.076 Short title.—Sections 403.076-403.078 may be cited as the "Public Notice of Pollution Act."

Section 2. Section 403.077, Florida Statutes, is created to read:



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11 403.077 Public notice of pollution; goals and findings.-

12 (1) It is a goal of the state that the public be timely
13 notified of a discovered, reportable pollution release that may
14 pose an immediate danger to the public health, safety, or
15 welfare.

16 (2) The department has the authority and the duty to
17 control and prohibit pollution of the air, land, and water of
18 this state and has the primary responsibility to ensure that the
19 public is aware of reportable pollution releases. Alerting the
20 department about reportable pollution releases, within the
21 timeframes and in the manner provided by this act, will better
22 inform the department and the public regarding such releases and
23 the need, if any, to take action to protect the public health,
24 safety, and welfare.

25 (3) This act does not alter or affect the emergency
26 management responsibilities of the Governor, the Division of
27 Emergency Management, or the governing body of any political
28 subdivision of the state pursuant to chapter 252.

29 Section 3. Section 403.078, Florida Statutes, is created to
30 read:

31 403.078 Public notification of pollution.-

32 (1) DEFINITION.-As used in this section, the term
33 "reportable pollution release" means the release or discharge of
34 a substance from an installation to the air, land, or waters of
35 the state which is discovered by the owner or operator of the
36 installation, which is not authorized by law, and which is:

37 (a) Reportable to the State Watch Office within the
38 Division of Emergency Management pursuant to department rules,
39 permit, order, or variance;



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40 (b) Reportable to the department or a contracted county
41 pursuant to department rules governing storage tank systems
42 under ss. 376.303, 376.321, and 376.322;

43 (c) Reportable to the department pursuant to department
44 rules requiring notice for noncompliance from underground
45 injection control systems where such noncompliance may endanger
46 public health or the environment and has the potential to
47 contaminate potable water wells outside the property boundaries
48 of the installation;

49 (d) A hazardous substance at or above the quantity
50 established in Table 302.4 of 40 C.F.R. s. 302.4, revised as of
51 July 1, 2016, for such substance, for which notification is
52 required by 40 C.F.R. s. 302.6; or

53 (e) An extremely hazardous substance pursuant to 40 C.F.R.
54 s. 355.61, at or above the quantity established in Appendices A
55 and B of 40 C.F.R. part 355, revised as of July 1, 2016, for
56 such substance, for which notice is required by 40 C.F.R. s.
57 355.33.

58 (2) OWNER AND OPERATOR RESPONSIBILITIES.—

59 (a) In the event of a reportable pollution release, any
60 person who is an owner or operator of the installation at which
61 the reportable pollution release occurred must provide a notice
62 containing the following information, to the extent known at the
63 time of such notice, to the department within 24 hours after its
64 discovery:

65 1. The name and address of the installation where the
66 reportable pollution release occurred.

67 2. The name and title of the reporting person and the
68 nature of his or her relationship to the installation.



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69 3. The identification numbers for any active department
70 permits, variances, registrations, or orders that are relevant
71 to the reportable pollution release.

72 4. The name and telephone number of a contact person for
73 further information.

74 5. The substance released.

75 6. The estimated quantity of the substance released and, if
76 applicable, the estimated quantity that has since been
77 recovered.

78 7. The cause of the release.

79 8. The source of the release.

80 9. The location of the release.

81 10. The date, time, and duration of the release.

82 11. The medium into which the substance was released,
83 including, but not limited to, the outdoor air, land,
84 groundwater, aquifer, or specified waters or wetlands.

85 12. Whether the released substance has migrated to land or
86 waters of the state outside the property boundaries of the
87 installation and the location of such migration.

88 13. To the extent available, toxicological information
89 associated with the substance released as specified on a safety
90 data sheet or comparable source published by the Occupational
91 Safety and Health Administration or the Centers for Disease
92 Control and Prevention, or their successor agencies.

93
94 The owner or operator may also include in the notice any other
95 information he or she wishes in order to assist in the
96 protection of the public health, safety, and welfare.

97 (b) If multiple parties are subject to the notification



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98 requirements based on a single reportable pollution release, a
99 single notification made by one party in accordance with this
100 section constitutes compliance on behalf of all parties subject
101 to the requirement. However, if the notification is not made in
102 accordance with this section, the department may pursue
103 enforcement against all parties subject to the requirement.

104 (c) If, after providing notice pursuant to paragraph (a),
105 the installation owner or operator determines that a reportable
106 pollution release did not occur or that an amendment to the
107 notice is warranted, the installation owner or operator may
108 submit a letter to the department documenting such
109 determination.

110 (d) If, after providing notice under paragraph (a), the
111 installation owner or operator determines that a release subject
112 to the noticing requirements of this act has migrated outside
113 the property boundaries of the installation, the owner or
114 operator, within 24 hours after such discovery, must provide an
115 additional notice to the department. Such notice must comply
116 with the requirements of paragraph (a) and specify the extent of
117 the migration outside the property boundaries.

118 (3) DEPARTMENTAL RESPONSIBILITIES.—

119 (a) The department shall publish on a website accessible to
120 the public all notices submitted by an owner or operator
121 pursuant to subsection (2) within 24 hours of receipt.

122 (b) The department shall create an electronic mailing list
123 for such notices and allow the public, including local
124 governments, health departments, news media, and other
125 interested persons, to subscribe to and receive periodic direct
126 announcement of any notices submitted pursuant to subsection



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127 (2). The department shall establish regional electronic mailing
128 lists, such as by county or district boundaries, to allow
129 subscribers to determine the notices they wish to receive by
130 geographic area.

131 (c) The department shall establish an e-mail address and an
132 online form as options for owners and operators to provide the
133 notice specified in paragraphs (2)(a) and (b).

134 (4) ADMISSION OF LIABILITY OR HARM.—Providing notice under
135 subsection (2) does not constitute an admission of liability or
136 harm.

137 (5) VIOLATIONS.—For failure to provide the notification
138 required by paragraph (2)(a) or paragraph (2)(d), the owner or
139 operator shall be subject to the civil penalties specified in s.
140 403.121.

141 (6) ADOPTION OF RULES.—The department shall adopt rules
142 necessary to administer the provisions of this section.

143 Section 4. Present paragraph (f) of subsection (4) of
144 section 403.121, Florida Statutes, is redesignated as paragraph
145 (g), and a new paragraph (f) is added to that subsection, to
146 read:

147 403.121 Enforcement; procedure; remedies.—The department
148 shall have the following judicial and administrative remedies
149 available to it for violations of this chapter, as specified in
150 s. 403.161(1).

151 (4) In an administrative proceeding, in addition to the
152 penalties that may be assessed under subsection (3), the
153 department shall assess administrative penalties according to
154 the following schedule:

155 (f) For failure to provide required notice pursuant to s.



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156 403.078, up to \$10,000 per day for each day an installation
157 owner or operator is in violation of the section.

158
159 ===== T I T L E A M E N D M E N T =====

160 And the title is amended as follows:

161 Delete line 2

162 and insert:

163 An act relating to pollution; creating s. 403.076,
164 F.S.; providing a short title; creating s. 403.077,
165 F.S.; providing goals and legislative findings;
166 specifying authority of the Department of
167 Environmental Protection; specifying that the act does
168 not alter or affect the emergency management
169 responsibilities of certain other governmental
170 entities; creating s. 403.078, F.S.; defining the term
171 "reportable pollution release"; requiring an owner or
172 operator of an installation at which a reportable
173 pollution release occurred to provide certain
174 information to the department within 24 hours after
175 the discovery of the release; authorizing the owner or
176 operator to amend such notice; specifying compliance
177 and enforcement requirements; requiring owners or
178 operators to provide notice when a reportable
179 pollution release migrates outside the property
180 boundaries of the installation; requiring the
181 department to publish such information in a specified
182 manner; requiring the department to establish an
183 electronic mailing list; requiring the department to
184 provide a reporting form and e-mail address for such



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185 notice; specifying that providing a notice does not
186 constitute an admission of liability or harm;
187 specifying penalties for violations; requiring the
188 department to adopt rules; amending s. 403.121, F.S.;
189 specifying penalties for failure to provide required
190 notice; amending