

1                   A bill to be entitled  
2           An act relating to public notification of pollution;  
3           creating s. 403.076, F.S.; providing a short title;  
4           creating s. 403.077, F.S.; providing legislative  
5           intent and findings; specifying authority of the  
6           Department of Environmental Protection; specifying  
7           that the act does not alter or affect the emergency  
8           management responsibilities of certain other  
9           governmental entities; creating s. 403.078, F.S.;  
10          defining the term "reportable pollution release";  
11          requiring the owner or operator of an installation at  
12          which a reportable pollution release occurred to  
13          provide certain information to the department within  
14          24 hours after the discovery of the release;  
15          authorizing the owner or operator to amend such  
16          notice; specifying compliance and enforcement  
17          requirements; requiring the department to publish such  
18          information in a specified manner; requiring the  
19          department to establish an electronic mailing list;  
20          requiring the department to provide a reporting form  
21          and e-mail address for such notice; specifying that  
22          providing a notice does not constitute an admission of  
23          liability or harm; specifying penalties for  
24          violations; amending s. 403.121, F.S.; specifying  
25          penalties for failure to provide required notice;

26 |           providing an effective date.

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28 | Be It Enacted by the Legislature of the State of Florida:

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

32 |           403.076 Short title.—Sections 403.076-403.078 may be cited  
33 | as the "Public Notice of Pollution Act."

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

36 |           403.077 Public notice of pollution; intent and findings.—

37 |           (1) It is the intent of the Legislature to timely notify  
38 | the public of a reportable pollution release discovered after  
39 | July 1, 2017.

40 |           (2) The department has the authority to control and  
41 | prohibit pollution of the air, land, and waters of this state  
42 | and has the primary responsibility to ensure that the public is  
43 | aware of reportable pollution releases. Providing notice to the  
44 | department of reportable pollution releases, within the rapid  
45 | timeframes and in the transparent manner provided by this act,  
46 | will better inform the department and the public regarding such  
47 | releases and the need, if any, to take action to protect the  
48 | public health, safety, and welfare.

49 |           (3) This act does not alter or affect the emergency  
50 | management responsibilities of the Governor, the Division of

51 Emergency Management, or the governing body of any political  
52 subdivision of the state pursuant to chapter 252, including  
53 coordination activities relating to emergency responses,  
54 recovery, and mitigation among and between agencies and  
55 officials of this state and similar agencies and officials of  
56 other states, the federal government, interstate organizations,  
57 and the private sector.

58 Section 3. Section 403.078, Florida Statutes, is created to  
59 read:

60 403.078 Public notification of pollution.-

61 (1) DEFINITION.-As used in this section, the term  
62 "reportable pollution release" means the release or discharge of  
63 a substance, discovered by the owner or operator of an  
64 installation, from the installation to the air, land, or waters  
65 of the state that is not authorized by law and that is:

66 (a) Reportable to the State Watch Office within the  
67 Division of Emergency Management pursuant to a department rule,  
68 permit, order, or variance;

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

72 (c) Reportable to the department pursuant to department  
73 rules requiring notice for noncompliance which may endanger  
74 public health or the environment from underground injection  
75 control systems where such noncompliance has the potential to

76 contaminate potable water wells outside the property boundaries  
 77 of the installation;

78 (d) A hazardous substance as defined in s. 376.301(21), at  
 79 or above the quantity established in Table 302.4 of 40 C.F.R. s.  
 80 302.4, revised as of July 1, 2016, for such substance, for which  
 81 notification is required by 40 C.F.R. s. 302.6; or

82 (e) An extremely hazardous substance pursuant to 40 C.F.R.  
 83 s. 355.61, at or above the quantity established in Appendices A  
 84 and B of 40 C.F.R. part 355, revised as of July 1, 2016, for  
 85 such substance, for which notice is required by 40 C.F.R. s.  
 86 355.33.

87 (2) OWNER AND OPERATOR RESPONSIBILITIES.-

88 (a) In the event of a reportable pollution release, any  
 89 person who is an owner or operator of the installation at which  
 90 the reportable pollution release occurred must provide a notice  
 91 with the following information, to the extent known at the time  
 92 of such notice, to the department within 24 hours after the  
 93 discovery of a reportable pollution release:

94 1. The name and address of the installation where the  
 95 release occurred.

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

98 3. The identification number for any active department  
 99 permits, variances, registrations, or orders that are relevant  
 100 to the release.

101        4. The name and telephone number of a contact person for  
102 further information.

103        5. The substance released.

104        6. The estimated quantity of the substance released and,  
105 if applicable, the estimated quantity that has since been  
106 recovered.

107        7. The cause of the release.

108        8. The source of the release.

109        9. The location of the release.

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

111        11. The medium into which the substance was released, such  
112 as, but not limited to, the air, land, groundwater, aquifer, or  
113 specified waters or wetlands.

114        12. Any other information the reporting person chooses to  
115 provide.

116        (b) If multiple parties are subject to the notice  
117 requirements based on a single reportable pollution release, a  
118 single notice made by one party in accordance with this section  
119 constitutes compliance on behalf of all parties subject to the  
120 requirement. However, if the notice is not made in accordance  
121 with this subsection, the department may pursue enforcement  
122 against all parties subject to the requirement.

123        (c) If the installation owner or operator determines,  
124 after providing notice pursuant to paragraph (a), that a  
125 reportable pollution release did not occur or that an amendment

126 to the notice is warranted, the installation owner or operator  
127 may submit a notice to the department documenting such  
128 determination.

129 (3) DEPARTMENTAL RESPONSIBILITIES.—

130 (a) The department shall publish, on a website accessible  
131 to the public, all notices provided by an owner or operator  
132 pursuant to subsection (2) within 24 hours after receipt.

133 (b) The department shall create an electronic mailing list  
134 for such notices and allow the public to subscribe to and  
135 receive periodic direct announcement of any notices provided  
136 pursuant to subsection (2). The department shall establish  
137 regional electronic mailing lists, such as by county or district  
138 boundaries, to allow subscribers to determine the notices they  
139 wish to receive by geographic area.

140 (c) The department shall establish an e-mail address and  
141 an online form as options for owners and operators to provide  
142 notice pursuant to subsection (2).

143 (4) ADMISSION OF LIABILITY OR HARM.—Providing notice  
144 pursuant to subsection (2) does not constitute an admission of  
145 liability or harm.

146 (5) VIOLATIONS.—For failure to provide the notice pursuant  
147 to subsection (2), the owner or operator shall be subject to the  
148 civil penalties specified in s. 403.121.

149 Section 4. Paragraph (c) of subsection (1) of section  
150 403.121, Florida Statutes, is redesignated as paragraph (d), a

151 new paragraph (c) is added to that subsection, paragraph (f) of  
152 subsection (4) is redesignated as paragraph (g), and a new  
153 paragraph (f) is added to that subsection, to read:

154 403.121 Enforcement; procedure; remedies.—The department  
155 shall have the following judicial and administrative remedies  
156 available to it for violations of this chapter, as specified in  
157 s. 403.161(1).

158 (1) Judicial remedies:

159 (c) The department may institute a civil action in a court  
160 of competent jurisdiction to impose and to recover a civil  
161 penalty of not more than \$10,000 per day for each day an  
162 installation owner or operator knowingly or willfully fails to  
163 provide required notice pursuant to s. 403.078, including the  
164 initial day such notice is required.

165 (4) In an administrative proceeding, in addition to the  
166 penalties that may be assessed under subsection (3), the  
167 department shall assess administrative penalties according to  
168 the following schedule:

169 (f) For knowing or willful failure to provide required  
170 notice pursuant to s. 403.078, up to \$10,000 per day for each  
171 day an installation owner or operator is in violation of the  
172 section, including the initial day such notice is required.

173 Section 5. This act shall take effect July 1, 2017.