

**By** the Committee on Environmental Preservation and Conservation;  
and Senators Galvano, Stewart, Benacquisto, Rouson, Book, and  
Young

592-02187-17

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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 goals and  
5       legislative 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 an 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 a reportable pollution  
15      release; authorizing the owner or operator to amend  
16      such notice; specifying compliance and enforcement  
17      requirements; requiring owners or operators to provide  
18      notice when a reportable pollution release migrates  
19      outside the property boundaries of the installation;  
20      requiring the department to publish such information  
21      in a specified manner; requiring the department to  
22      establish an electronic mailing list; requiring the  
23      department to provide a reporting form and e-mail  
24      address for such notice; specifying that providing a  
25      notice does not constitute an admission of liability  
26      or harm; specifying penalties for violations;  
27      requiring the department to adopt rules; amending s.  
28      403.121, F.S.; specifying penalties for failure to  
29      provide required notice; providing an effective date.

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

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:

403.077 Public notice of pollution; goals and findings.—

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

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

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

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

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59 403.078 Public notification of pollution.-

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

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

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

71 (c) Reportable to the department pursuant to department  
72 rules requiring notice for noncompliance from underground  
73 injection control systems where such noncompliance may endanger  
74 public health or the environment and has the potential to  
75 contaminate potable water wells outside the property boundaries  
76 of the installation;

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

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

86 (2) OWNER AND OPERATOR RESPONSIBILITIES.-

87 (a) In the event of a reportable pollution release, any

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

93 1. The name and address of the installation where the  
94 reportable pollution release occurred.

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

97 3. The identification numbers for any active department  
98 permits, variances, registrations, or orders that are relevant  
99 to the reportable pollution release.

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

102 5. The substance released.

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

106 7. The cause of the release.

107 8. The source of the release.

108 9. The location of the release.

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

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

113 12. Whether the released substance has migrated to land or  
114 waters of the state outside the property boundaries of the  
115 installation and the location of such migration.

116 13. To the extent available, toxicological information

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117 associated with the substance released as specified on a safety  
118 data sheet or comparable source published by the Occupational  
119 Safety and Health Administration or the Centers for Disease  
120 Control and Prevention, or their successor agencies.

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

125 (b) If multiple parties are subject to the notification  
126 requirements based on a single reportable pollution release, a  
127 single notification made by one party in accordance with this  
128 section constitutes compliance on behalf of all parties subject  
129 to the requirement. However, if the notification is not made in  
130 accordance with this section, the department may pursue  
131 enforcement against all parties subject to the requirement.

132 (c) If, after providing notice pursuant to paragraph (a),  
133 the installation owner or operator determines that a reportable  
134 pollution release did not occur or that an amendment to the  
135 notice is warranted, the installation owner or operator may  
136 submit a letter to the department documenting such  
137 determination.

138 (d) If, after providing notice under paragraph (a), the  
139 installation owner or operator determines that a release subject  
140 to the noticing requirements of this act has migrated outside  
141 the property boundaries of the installation, the owner or  
142 operator, within 24 hours after such discovery, must provide an  
143 additional notice to the department. Such notice must comply  
144 with the requirements of paragraph (a) and specify the extent of  
145 the migration outside the property boundaries.

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146 (3) DEPARTMENTAL RESPONSIBILITIES.—

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

150 (b) The department shall create an electronic mailing list  
151 for such notices and allow the public, including local  
152 governments, health departments, news media, and other  
153 interested persons, to subscribe to and receive periodic direct  
154 announcement of any notices submitted pursuant to subsection  
155 (2). The department shall establish regional electronic mailing  
156 lists, such as by county or district boundaries, to allow  
157 subscribers to determine the notices they wish to receive by  
158 geographic area.

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

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

165 (5) VIOLATIONS.—For failure to provide the notification  
166 required by paragraphs (2) (a) or (2) (d), the owner or operator  
167 shall be subject to the civil penalties specified in s. 403.121.

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

170 Section 4. Present paragraph (f) of subsection (4) of  
171 section 403.121, Florida Statutes, is redesignated as paragraph  
172 (g), and a new paragraph (f) is added to that subsection, to  
173 read:

174 403.121 Enforcement; procedure; remedies.—The department

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175 shall have the following judicial and administrative remedies  
176 available to it for violations of this chapter, as specified in  
177 s. 403.161(1).

178 (4) In an administrative proceeding, in addition to the  
179 penalties that may be assessed under subsection (3), the  
180 department shall assess administrative penalties according to  
181 the following schedule:

182 (f) For failure to provide required notice pursuant to s.  
183 403.078, up to \$10,000 per day for each day an installation  
184 owner or operator is in violation of the section.

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