

1                   A bill to be entitled  
2           An act relating to governmental powers; amending s.  
3           166.045, F.S.; prohibiting a municipality from  
4           purchasing specified real properties under certain  
5           circumstances; amending s. 171.042, F.S.; prohibiting  
6           a governmental entity from attempting to annex  
7           specified areas under certain circumstances; amending  
8           s. 210.03, F.S.; prohibiting a municipality from  
9           levying or collecting specified taxes on certain  
10          products and devices after a specified date; creating  
11          s. 210.305, F.S.; prohibiting a municipality from  
12          levying or collecting specified taxes on certain  
13          products and devices after a specified date; amending  
14          s. 252.363, F.S.; revising the circumstances under  
15          which a state of emergency declaration tolls and  
16          extends the remaining period for certain permits and  
17          authorizations; creating s. 403.7034, F.S.; providing  
18          definitions; providing that a food service  
19          establishment may distribute a single-use plastic  
20          straw to a customer only if requested to do so by the  
21          customer; providing exceptions; providing that a food  
22          service establishment may make single-use plastic  
23          straws available through self-serve straw dispensers;  
24          preempting the regulation of single-use plastic straws  
25          to the state; amending s. 499.002, F.S.; preempting

26 | the regulation of over-the-counter proprietary drugs  
 27 | and cosmetics to the state; amending s. 526.143, F.S.;  
 28 | preempting the establishment of the requirements for  
 29 | alternate generated power sources to the state and to  
 30 | the Division of Emergency Management; amending s.  
 31 | 569.008, F.S.; revising the legislative intent;  
 32 | revising the training program requirements for the  
 33 | tobacco products dealer's employees; revising the  
 34 | model training program developed by the Division of  
 35 | Alcoholic Beverages and Tobacco; preempting the  
 36 | establishment of the minimum age for the sale or  
 37 | delivery of tobacco products, nicotine products, and  
 38 | nicotine dispensing devices to the state; providing an  
 39 | effective date.

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

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43 | Section 1. Subsection (2) of section 166.045, Florida  
 44 | Statutes, is renumbered as subsection (3), and a new subsection  
 45 | (2) is added to that section, to read:

46 | 166.045 Proposed purchase of real property by  
 47 | municipality; confidentiality of records; procedure.—

48 | (2) Except as otherwise provided in s. 171.205, a  
 49 | municipality may not purchase real property within another  
 50 | municipality's jurisdictional boundaries without the other

51 municipality's consent.

52 Section 2. Subsection (4) is added to section 171.042,  
53 Florida Statutes, to read:

54 171.042 Prerequisites to annexation.—

55 (4) Except as otherwise provided in s. 171.205, a  
56 governmental entity may not attempt to annex an area within  
57 another governmental entity's jurisdiction without the other  
58 governmental entity's consent.

59 Section 3. Section 210.03, Florida Statutes, is amended to  
60 read:

61 210.03 Prohibition against levying of ~~cigarette~~ taxes on  
62 cigarettes, cigars, and nicotine products and dispensing devices  
63 by municipalities.—A ~~no~~ municipality may not shall, after July  
64 1, 1972, levy or collect any excise tax on cigarettes, and after  
65 July 1, 2019, levy or collect any excise tax on cigars, nicotine  
66 products, as defined in s. 877.112, and nicotine dispensing  
67 devices, as defined in s. 877.112.

68 Section 4. Section 210.305, Florida Statutes, is created  
69 to read:

70 210.305 Prohibition against levying of taxes on tobacco  
71 products, nicotine products, and nicotine dispensing devices by  
72 municipalities.—A municipality may not levy or collect any  
73 excise tax on tobacco products, nicotine products, as defined in  
74 s. 877.112, and nicotine dispensing devices, as defined in s.  
75 877.112.

76 Section 5. Paragraph (a) of subsection (1) of section  
 77 252.363, Florida Statutes, is amended to read:

78 252.363 Tolling and extension of permits and other  
 79 authorizations.—

80 (1)(a) The declaration of a state of emergency issued by  
 81 the Governor for a natural emergency tolls the period remaining  
 82 to exercise the rights under a permit or other authorization for  
 83 the duration of the emergency declaration. Further, the  
 84 emergency declaration extends the period remaining to exercise  
 85 the rights under a permit or other authorization for 6 months in  
 86 addition to the tolled period. This paragraph applies to the  
 87 following:

88 1. The expiration of a development order issued by a local  
 89 government.

90 2. The expiration of a building permit.

91 3. The expiration of a permit issued by the Department of  
 92 Environmental Protection or a water management district pursuant  
 93 to part IV of chapter 373.

94 4. The buildout date of a development of regional impact,  
 95 including any extension of a buildout date that was previously  
 96 granted as specified in s. 380.06(7)(c).

97 Section 6. Section 403.7034, Florida Statutes, is created  
 98 to read:

99 403.7034 Single-use plastic straws.—

100 (1) As used in this section, the term:

101 (a) "Distribute" means to sell, use, or offer or to  
102 provide for sale or use.

103 (b) "Food service establishment" means a restaurant,  
104 convenience store, grocery store, or vendor that sells food or  
105 beverages for the customer to consume on, near, or off the  
106 establishment's premises.

107 (c) "Plastic straw" means a disposable straw made  
108 predominantly of plastic derived from petroleum or a  
109 biologically based polymer, such as corn or other plant sources,  
110 which is used to transfer a beverage from a container to the  
111 mouth of the person drinking the beverage. The term does not  
112 include a straw made from nonplastic materials, including, but  
113 not limited to, paper, wood, or bamboo.

114 (d) "Single-use" means a product that is designed to be  
115 used only once in its original form and then be disposed of or  
116 destroyed.

117 (2) (a) A food service establishment may distribute a  
118 single-use plastic straw to a customer only if requested to do  
119 so by the customer.

120 (b) The prohibition under paragraph (a) does not apply to  
121 a take-out order; an order for off-premises delivery; an order  
122 placed via a digital or mobile application; the distribution of  
123 food or beverage items that were filled, sealed, or packaged  
124 before the food service establishment received such items; or a  
125 hospital or nursing, rehabilitation, or other health care

126 facility.

127 (3) This section does not prohibit a food service  
128 establishment from making single-use plastic straws available to  
129 customers through a self-serve straw dispenser.

130 (4) The regulation of single-use plastic straws is  
131 preempted to the state. A municipality, county, or other local  
132 governmental entity may not adopt, enforce, or implement any  
133 ordinance, rule, or law that would further restrict a food  
134 service establishment from distributing single-use plastic  
135 straws to customers.

136 Section 7. Subsection (7) is added to section 499.002,  
137 Florida Statutes, to read:

138 499.002 Purpose, administration, and enforcement of and  
139 exemption from this part; preemption.-

140 (7) Regulation of over-the-counter proprietary drugs and  
141 cosmetics is expressly preempted to the state.

142 Section 8. Subsection (6) is added to section 526.143,  
143 Florida Statutes, to read:

144 526.143 Alternate generated power capacity for motor fuel  
145 dispensing facilities.-

146 (6) The establishment of the requirements for alternate  
147 generated power sources, including transfer switches, is  
148 preempted to the state and the Division of Emergency Management.

149 Section 9. Section 569.008, Florida Statutes, is amended  
150 to read:

151           569.008 Responsible retail tobacco products dealers;  
152 qualifications; mitigation of disciplinary penalties; diligent  
153 management and supervision; presumption.—As used in this  
154 section, the terms "nicotine product" and "nicotine dispensing  
155 device" have the same meanings as provided in s. 877.112.

156           (1) The Legislature intends to prevent the sale and  
157 delivery of tobacco products, nicotine products, and nicotine  
158 dispensing devices to persons under 18 years of age and to  
159 encourage retail tobacco products dealers to comply with  
160 responsible practices in accordance with this section.

161           (2) To qualify as a responsible retail tobacco products  
162 dealer, the dealer must establish and implement procedures  
163 designed to ensure that the dealer's employees comply with the  
164 provisions of this chapter. The dealer must provide a training  
165 program for the dealer's employees which addresses the use, and  
166 sale, and delivery of tobacco products, nicotine products, and  
167 nicotine dispensing devices and which includes at least the  
168 following topics:

169           (a) Laws covering the sale and delivery of tobacco  
170 products, nicotine products, and nicotine dispensing devices.

171           (b) Methods of recognizing and handling customers under 18  
172 years of age.

173           (c) Procedures for proper examination of identification  
174 cards in order to verify that customers are not under 18 years  
175 of age.

176 (d) The use of the age audit identification function on  
177 electronic point-of-sale equipment, where available.

178 (3) In determining penalties under s. 569.006, the  
179 division may mitigate penalties imposed against a dealer because  
180 of an employee's illegal sale or delivery of a tobacco product,  
181 nicotine product, or nicotine dispensing device to a person  
182 under 18 years of age if the following conditions are met:

183 (a) The dealer is qualified as a responsible dealer under  
184 this section.

185 (b) The dealer provided the training program required  
186 under subsection (2) to that employee before the illegal sale  
187 occurred.

188 (c) The dealer had no knowledge of that employee's  
189 violation at the time of the violation and did not direct,  
190 approve, or participate in the violation.

191 (d) If the sale was made through a vending machine, the  
192 machine was equipped with an operational lock-out device.

193 (4) The division shall develop and make available a model  
194 tobacco products, nicotine products, and nicotine dispensing  
195 devices training program designed to ensure adherence to this  
196 act by dealers and their employees which, if followed, will  
197 qualify dealers as responsible dealers.

198 (5) Dealers shall exercise diligence in the management and  
199 supervision of their premises and in the supervision and  
200 training of their employees, agents, or servants. In proceedings



201 to impose penalties under s. 569.006, proof that employees,  
202 agents, or servants of the dealer, while in the scope of their  
203 employment, committed at least three violations of s. 569.101  
204 during a 180-day period shall be prima facie evidence of a lack  
205 of due diligence by the dealer in the management and supervision  
206 of his or her premises and in the supervision and training of  
207 employees, agents, officers, or servants.

208 (6) The division may consider qualification as a  
209 responsible retail tobacco products dealer under this section as  
210 evidence that the dealer properly exercised the diligence  
211 required under this section.

212 (7) The establishment of the minimum age for the sale or  
213 delivery of tobacco products, nicotine products, and nicotine  
214 dispensing devices is preempted to the state.

215 Section 10. This act shall take effect July 1, 2019.