

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 municipality from attempting to annex specified  
7           areas under certain circumstances; amending s. 210.03,  
8           F.S.; prohibiting a municipality from levying or  
9           collecting specified taxes on certain products and  
10          devices after a specified date; creating s. 210.305,  
11          F.S.; prohibiting a municipality from levying or  
12          collecting specified taxes on certain products and  
13          devices after a specified date; amending s. 252.363,  
14          F.S.; revising the circumstances under which a state  
15          of emergency declaration tolls and extends the  
16          remaining period for certain permits and  
17          authorizations; amending s. 400.23, F.S.; prohibiting  
18          a municipality, county, or other local government  
19          entity from imposing additional requirements for  
20          maximum fuel supply or safe temperature and cooling  
21          requirements related to the comprehensive emergency  
22          management plan of nursing homes and related care  
23          facilities; creating s. 403.7034, F.S.; providing  
24          definitions; preempting the regulation of single-use  
25          plastic straws to the state; amending s. 429.41, F.S.;

26 prohibiting a municipality, county, or other local  
27 government entity from imposing additional  
28 requirements for maximum fuel supply or safe  
29 temperature and cooling requirements related to the  
30 comprehensive emergency management plan of assisted  
31 care communities; amending s. 499.002, F.S.;  
32 preempting the regulation of over-the-counter  
33 proprietary drugs and cosmetics to the state; amending  
34 s. 526.143, F.S.; preempting the establishment of the  
35 requirements for alternate generated power sources to  
36 the state and to the Division of Emergency Management;  
37 amending s. 569.008, F.S.; revising the legislative  
38 intent; revising the training program requirements for  
39 the tobacco products dealer's employees; revising the  
40 model training program developed by the Division of  
41 Alcoholic Beverages and Tobacco; preempting the  
42 establishment of the minimum age for the sale or  
43 delivery of tobacco products, nicotine products, and  
44 nicotine dispensing devices to the state; providing an  
45 effective date.

46  
47 Be It Enacted by the Legislature of the State of Florida:

48  
49 Section 1. Subsection (2) of section 166.045, Florida  
50 Statutes, is renumbered as subsection (3), and a new subsection

51 (2) is added to that section, to read:

52 166.045 Proposed purchase of real property by  
53 municipality; confidentiality of records; procedure.-

54 (2) Except as otherwise provided in s. 171.205, a  
55 municipality may not purchase real property within another  
56 municipality's jurisdictional boundaries without the other  
57 municipality's consent.

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

60 171.042 Prerequisites to annexation.-

61 (4) Except as otherwise provided in s. 171.205, a  
62 municipality may not attempt to annex an area within another  
63 municipal jurisdiction without the other municipality's consent.

64 Section 3. Section 210.03, Florida Statutes, is amended to  
65 read:

66 210.03 Prohibition against levying of ~~cigarette~~ taxes on  
67 cigarettes, cigars, and nicotine products and dispensing devices  
68 by municipalities.-A ~~No~~ municipality may not shall, after July  
69 1, 1972, levy or collect any excise tax on cigarettes, and after  
70 July 1, 2019, levy or collect any excise tax on cigars, nicotine  
71 products, as defined in s. 877.112, and nicotine dispensing  
72 devices, as defined in s. 877.112.

73 Section 4. Section 210.305, Florida Statutes, is created  
74 to read:

75 210.305 Prohibition against levying of taxes on tobacco

76 | products, nicotine products, and nicotine dispensing devices by  
 77 | municipalities.—A municipality may not levy or collect any  
 78 | excise tax on tobacco products, nicotine products, as defined in  
 79 | s. 877.112, and nicotine dispensing devices, as defined in s.  
 80 | 877.112.

81 | Section 5. Paragraph (a) of subsection (1) of section  
 82 | 252.363, Florida Statutes, is amended to read:

83 | 252.363 Tolling and extension of permits and other  
 84 | authorizations.—

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

93 | 1. The expiration of a development order issued by a local  
 94 | government.

95 | 2. The expiration of a building permit.

96 | 3. The expiration of a permit issued by the Department of  
 97 | Environmental Protection or a water management district pursuant  
 98 | to part IV of chapter 373.

99 | 4. The buildout date of a development of regional impact,  
 100 | including any extension of a buildout date that was previously

101 granted as specified in s. 380.06(7)(c).

102 Section 6. Paragraph (g) of subsection (2) of section  
103 400.23, Florida Statutes, is amended to read:

104 400.23 Rules; evaluation and deficiencies; licensure  
105 status.—

106 (2) Pursuant to the intention of the Legislature, the  
107 agency, in consultation with the Department of Health and the  
108 Department of Elderly Affairs, shall adopt and enforce rules to  
109 implement this part and part II of chapter 408, which shall  
110 include reasonable and fair criteria in relation to:

111 (g) The preparation and annual update of a comprehensive  
112 emergency management plan. The agency shall adopt rules  
113 establishing minimum criteria for the plan after consultation  
114 with the Division of Emergency Management. At a minimum, the  
115 rules must provide for plan components that address emergency  
116 evacuation transportation; adequate sheltering arrangements;  
117 postdisaster activities, including emergency power, food, and  
118 water; postdisaster transportation; supplies; staffing;  
119 emergency equipment; individual identification of residents and  
120 transfer of records; and responding to family inquiries. The  
121 comprehensive emergency management plan is subject to review and  
122 approval by the local emergency management agency. During its  
123 review, the local emergency management agency shall ensure that  
124 the following agencies, at a minimum, are given the opportunity  
125 to review the plan: the Department of Elderly Affairs, the

126 Department of Health, the Agency for Health Care Administration,  
127 and the Division of Emergency Management. Also, appropriate  
128 volunteer organizations must be given the opportunity to review  
129 the plan. The local emergency management agency shall complete  
130 its review within 60 days and either approve the plan or advise  
131 the facility of necessary revisions. A municipality, county, or  
132 other local government entity may not adopt, enforce, or  
133 implement any ordinance, rule, or law that would impose  
134 additional requirements for maximum fuel supply or safe  
135 temperature and cooling requirements related to the  
136 comprehensive emergency management plan.

137 Section 7. Section 403.7034, Florida Statutes, is created  
138 to read:

139 403.7034 Single-use plastic straws; preemption.-

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

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

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

147 (c) "Plastic straw" means a disposable straw made  
148 predominantly of plastic derived from petroleum or a  
149 biologically based polymer, such as corn or other plant sources,  
150 which is used to transfer a beverage from a container to the

151 mouth of the person drinking the beverage. The term does not  
152 include a straw made from nonplastic materials, including, but  
153 not limited to, paper, wood, or bamboo.

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

157 (2) The regulation of single-use plastic straws is  
158 preempted to the state. A municipality, county, or other local  
159 governmental entity may not adopt, enforce, or implement any  
160 ordinance, rule, or law that would restrict a food service  
161 establishment from distributing single-use plastic straws to  
162 customers.

163 Section 8. Paragraph (b) of subsection (1) of section  
164 429.41, Florida Statutes, is amended to read:

165 429.41 Rules establishing standards.—

166 (1) It is the intent of the Legislature that rules  
167 published and enforced pursuant to this section shall include  
168 criteria by which a reasonable and consistent quality of  
169 resident care and quality of life may be ensured and the results  
170 of such resident care may be demonstrated. Such rules shall also  
171 ensure a safe and sanitary environment that is residential and  
172 noninstitutional in design or nature. It is further intended  
173 that reasonable efforts be made to accommodate the needs and  
174 preferences of residents to enhance the quality of life in a  
175 facility. Uniform firesafety standards for assisted living

176 facilities shall be established by the State Fire Marshal  
177 pursuant to s. 633.206. The agency, in consultation with the  
178 department, may adopt rules to administer the requirements of  
179 part II of chapter 408. In order to provide safe and sanitary  
180 facilities and the highest quality of resident care  
181 accommodating the needs and preferences of residents, the  
182 department, in consultation with the agency, the Department of  
183 Children and Families, and the Department of Health, shall adopt  
184 rules, policies, and procedures to administer this part, which  
185 must include reasonable and fair minimum standards in relation  
186 to:

187 (b) The preparation and annual update of a comprehensive  
188 emergency management plan. Such standards must be included in  
189 the rules adopted by the department after consultation with the  
190 Division of Emergency Management. At a minimum, the rules must  
191 provide for plan components that address emergency evacuation  
192 transportation; adequate sheltering arrangements; postdisaster  
193 activities, including provision of emergency power, food, and  
194 water; postdisaster transportation; supplies; staffing;  
195 emergency equipment; individual identification of residents and  
196 transfer of records; communication with families; and responses  
197 to family inquiries. The comprehensive emergency management plan  
198 is subject to review and approval by the local emergency  
199 management agency. During its review, the local emergency  
200 management agency shall ensure that the following agencies, at a



201 minimum, are given the opportunity to review the plan: the  
202 Department of Elderly Affairs, the Department of Health, the  
203 Agency for Health Care Administration, and the Division of  
204 Emergency Management. Also, appropriate volunteer organizations  
205 must be given the opportunity to review the plan. The local  
206 emergency management agency shall complete its review within 60  
207 days and either approve the plan or advise the facility of  
208 necessary revisions. A municipality, county, or other local  
209 government entity may not adopt, enforce, or implement any  
210 ordinance, rule, or law that would impose additional  
211 requirements for maximum fuel supply or safe temperature and  
212 cooling requirements related to the comprehensive emergency  
213 management plan.

214 Section 9. Subsection (7) is added to section 499.002,  
215 Florida Statutes, to read:

216 499.002 Purpose, administration, and enforcement of and  
217 exemption from this part; preemption.—

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

220 Section 10. Subsection (6) is added to section 526.143,  
221 Florida Statutes, to read:

222 526.143 Alternate generated power capacity for motor fuel  
223 dispensing facilities; preemption.—

224 (6) The establishment of the requirements for alternate  
225 generated power sources, including transfer switches, is

226 | preempted to the state and the Division of Emergency Management.

227 | Section 11. Section 569.008, Florida Statutes, is amended  
228 | to read:

229 | 569.008 Responsible retail tobacco products dealers;  
230 | qualifications; mitigation of disciplinary penalties; diligent  
231 | management and supervision; presumption; ~~preemption.~~—As used in  
232 | this section, the terms "nicotine product" and "nicotine  
233 | dispensing device" have the same meanings as provided in s.  
234 | 877.112.

235 | (1) The Legislature intends to prevent the sale and  
236 | delivery of tobacco products, nicotine products, and nicotine  
237 | dispensing devices to persons under 18 years of age and to  
238 | encourage retail tobacco products dealers to comply with  
239 | responsible practices in accordance with this section.

240 | (2) To qualify as a responsible retail tobacco products  
241 | dealer, the dealer must establish and implement procedures  
242 | designed to ensure that the dealer's employees comply with the  
243 | provisions of this chapter. The dealer must provide a training  
244 | program for the dealer's employees which addresses the use, and  
245 | sale, and delivery of tobacco products, nicotine products, and  
246 | nicotine dispensing devices and which includes at least the  
247 | following topics:

248 | (a) Laws covering the sale and delivery of tobacco  
249 | products, nicotine products, and nicotine dispensing devices.

250 | (b) Methods of recognizing and handling customers under 18

251 years of age.

252 (c) Procedures for proper examination of identification  
253 cards in order to verify that customers are not under 18 years  
254 of age.

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

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

262 (a) The dealer is qualified as a responsible dealer under  
263 this section.

264 (b) The dealer provided the training program required  
265 under subsection (2) to that employee before the illegal sale  
266 occurred.

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

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

272 (4) The division shall develop and make available a model  
273 tobacco products, nicotine products, and nicotine dispensing  
274 devices training program designed to ensure adherence to this  
275 act by dealers and their employees which, if followed, will

276 | qualify dealers as responsible dealers.

277 |       (5) Dealers shall exercise diligence in the management and  
278 | supervision of their premises and in the supervision and  
279 | training of their employees, agents, or servants. In proceedings  
280 | to impose penalties under s. 569.006, proof that employees,  
281 | agents, or servants of the dealer, while in the scope of their  
282 | employment, committed at least three violations of s. 569.101  
283 | during a 180-day period shall be prima facie evidence of a lack  
284 | of due diligence by the dealer in the management and supervision  
285 | of his or her premises and in the supervision and training of  
286 | employees, agents, officers, or servants.

287 |       (6) The division may consider qualification as a  
288 | responsible retail tobacco products dealer under this section as  
289 | evidence that the dealer properly exercised the diligence  
290 | required under this section.

291 |       (7) The establishment of the minimum age for the sale or  
292 | delivery of tobacco products, nicotine products, and nicotine  
293 | dispensing devices is preempted to the state.

294 |       Section 12. This act shall take effect July 1, 2019.