

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

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

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

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

51 166.045 Proposed purchase of real property by
52 municipality; confidentiality of records; procedure.—

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

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

59 171.042 Prerequisites to annexation.—

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

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

65 210.03 Prohibition against levying of ~~cigarette~~ taxes on
66 cigarettes, cigars, and nicotine products and dispensing devices
67 by municipalities.—A ~~No~~ municipality may not shall, after July
68 1, 1972, levy or collect any excise tax on cigarettes, and after
69 July 1, 2019, levy or collect any excise tax on cigars, nicotine
70 products, as defined in s. 877.112, and nicotine dispensing
71 devices, as defined in s. 877.112.

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

74 210.305 Prohibition against levying of taxes on tobacco
75 products, nicotine products, and nicotine dispensing devices by

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

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

82 | 252.363 Tolling and extension of permits and other
 83 | authorizations.—

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

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

94 | 2. The expiration of a building permit.

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

98 | 4. The buildout date of a development of regional impact,
 99 | including any extension of a buildout date that was previously
 100 | granted as specified in s. 380.06(7)(c).

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

103 400.23 Rules; evaluation and deficiencies; licensure
 104 status.—

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

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

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

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

138 403.7034 Single-use plastic straws; preemption.-

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

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

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

146 (c) "Plastic straw" means a disposable straw made
147 predominantly of plastic derived from petroleum or a
148 biologically based polymer, such as corn or other plant sources,
149 which is used to transfer a beverage from a container to the
150 mouth of the person drinking the beverage. The term does not

151 include a straw made from nonplastic materials, including, but
152 not limited to, paper, wood, or bamboo.

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

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

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

164 429.41 Rules establishing standards.—

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

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

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

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

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

215 499.002 Purpose, administration, and enforcement of and
 216 exemption from this part; preemption.—

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

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

221 526.143 Alternate generated power capacity for motor fuel
 222 dispensing facilities; preemption.—

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

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

228 569.008 Responsible retail tobacco products dealers;
229 qualifications; mitigation of disciplinary penalties; diligent
230 management and supervision; presumption; preemption.—As used in
231 this section, the terms "nicotine product" and "nicotine
232 dispensing device" have the same meanings as provided in s.
233 877.112.

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

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

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

249 (b) Methods of recognizing and handling customers under 18
250 years of age.

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

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

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

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

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

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

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

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

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

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

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

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