

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 governmental entity from imposing  
19          additional requirements for maximum fuel supply or  
20          safe temperature and cooling requirements related to  
21          the 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.; requiring the comprehensive

26 | emergency management plan of assisted living  
27 | facilities to address the facilities' ability to  
28 | maintain indoor air temperatures within specified  
29 | temperatures under certain circumstances; authorizing  
30 | assisted living facilities to exceed minimum square  
31 | footage requirements under certain circumstances;  
32 | specifying that the county has review and approval  
33 | authority over the comprehensive emergency management  
34 | plan; specifying submittal timeframe for the plan;  
35 | extending the compliance deadline to a specified date;  
36 | providing facility requirements in a declared state of  
37 | emergency under certain circumstances; prohibiting a  
38 | municipality, county, or other local governmental  
39 | entity from imposing additional requirements for  
40 | maximum fuel supply or safe temperature and cooling  
41 | requirements related to the comprehensive emergency  
42 | management plan of assisted care communities; amending  
43 | s. 499.002, F.S.; preempting the regulation of over-  
44 | the-counter proprietary drugs and cosmetics to the  
45 | state; amending s. 526.143, F.S.; preempting the  
46 | establishment of the requirements for alternate  
47 | generated power sources to the state and to the  
48 | Division of Emergency Management; amending s. 569.008,  
49 | F.S.; revising the legislative intent; revising the  
50 | training program requirements for the tobacco products

51 dealer's employees; revising the model training  
52 program developed by the Division of Alcoholic  
53 Beverages and Tobacco; preempting the establishment of  
54 the minimum age for the sale, purchase, or delivery of  
55 tobacco products, nicotine products, and nicotine  
56 dispensing devices to the state; preempting the  
57 regulation of the marketing of such products and  
58 devices to the state; providing an effective date.  
59

60 Be It Enacted by the Legislature of the State of Florida:  
61

62 Section 1. Subsection (2) of section 166.045, Florida  
63 Statutes, is renumbered as subsection (3), and a new subsection  
64 (2) is added to that section, to read:

65 166.045 Proposed purchase of real property by  
66 municipality; confidentiality of records; procedure.—

67 (2) Except as otherwise provided in s. 171.205, a  
68 municipality may not purchase real property within another  
69 municipality's jurisdictional boundaries without the other  
70 municipality's consent.

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

73 171.042 Prerequisites to annexation.—

74 (4) Except as otherwise provided in s. 171.205, a  
75 municipality may not annex an area within another municipal

76 | jurisdiction without the other municipality's consent.

77 | Section 3. Section 210.03, Florida Statutes, is amended to  
78 | read:

79 | 210.03 Prohibition against levying of ~~cigarette~~ taxes on  
80 | cigarettes, cigars, and nicotine products and dispensing devices  
81 | by municipalities.—~~A No~~ municipality may not shall, after July  
82 | 1, 1972, levy or collect any excise tax on cigarettes, and after  
83 | July 1, 2019, levy or collect any excise tax on cigars, nicotine  
84 | products, as defined in s. 877.112, and nicotine dispensing  
85 | devices, as defined in s. 877.112.

86 | Section 4. Section 210.305, Florida Statutes, is created  
87 | to read:

88 | 210.305 Prohibition against levying of taxes on tobacco  
89 | products, nicotine products, and nicotine dispensing devices by  
90 | municipalities.—A municipality may not levy or collect any  
91 | excise tax on tobacco products, nicotine products, as defined in  
92 | s. 877.112, and nicotine dispensing devices, as defined in s.  
93 | 877.112.

94 | Section 5. Paragraph (a) of subsection (1) of section  
95 | 252.363, Florida Statutes, is amended to read:

96 | 252.363 Tolling and extension of permits and other  
97 | authorizations.—

98 | (1) (a) The declaration of a state of emergency issued by  
99 | the Governor for a natural emergency tolls the period remaining  
100 | to exercise the rights under a permit or other authorization for

101 the duration of the emergency declaration. Further, the  
 102 emergency declaration extends the period remaining to exercise  
 103 the rights under a permit or other authorization for 6 months in  
 104 addition to the tolled period. This paragraph applies to the  
 105 following:

106 1. The expiration of a development order issued by a local  
 107 government.

108 2. The expiration of a building permit.

109 3. The expiration of a permit issued by the Department of  
 110 Environmental Protection or a water management district pursuant  
 111 to part IV of chapter 373.

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

115 Section 6. Paragraph (g) of subsection (2) of section  
 116 400.23, Florida Statutes, is amended to read:

117 400.23 Rules; evaluation and deficiencies; licensure  
 118 status.—

119 (2) Pursuant to the intention of the Legislature, the  
 120 agency, in consultation with the Department of Health and the  
 121 Department of Elderly Affairs, shall adopt and enforce rules to  
 122 implement this part and part II of chapter 408, which shall  
 123 include reasonable and fair criteria in relation to:

124 (g) The preparation and annual update of a comprehensive  
 125 emergency management plan. The agency shall adopt rules

126 establishing minimum criteria for the plan after consultation  
127 with the Division of Emergency Management. At a minimum, the  
128 rules must provide for plan components that address emergency  
129 evacuation transportation; adequate sheltering arrangements;  
130 postdisaster activities, including emergency power, food, and  
131 water; postdisaster transportation; supplies; staffing;  
132 emergency equipment; individual identification of residents and  
133 transfer of records; and responding to family inquiries. The  
134 comprehensive emergency management plan is subject to review and  
135 approval by the local emergency management agency. During its  
136 review, the local emergency management agency shall ensure that  
137 the following agencies, at a minimum, are given the opportunity  
138 to review the plan: the Department of Elderly Affairs, the  
139 Department of Health, the Agency for Health Care Administration,  
140 and the Division of Emergency Management. Also, appropriate  
141 volunteer organizations must be given the opportunity to review  
142 the plan. The local emergency management agency shall complete  
143 its review within 60 days and either approve the plan or advise  
144 the facility of necessary revisions. A municipality, county, or  
145 other local governmental entity may not adopt, enforce, or  
146 implement any ordinance, rule, or law that would impose  
147 additional requirements for maximum fuel supply or safe  
148 temperature and cooling requirements related to the  
149 comprehensive emergency management plan.

150 Section 7. Section 403.7034, Florida Statutes, is created

151 to read:

152 403.7034 Single-use plastic straws; preemption.—

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

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

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

160 (c) "Plastic straw" means a disposable straw made  
161 predominantly of plastic derived from petroleum or a  
162 biologically based polymer, such as corn or other plant sources,  
163 which is used to transfer a beverage from a container to the  
164 mouth of the person drinking the beverage. The term does not  
165 include a straw made from nonplastic materials, including, but  
166 not limited to, paper, wood, or bamboo.

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

170 (2) The regulation of single-use plastic straws is  
171 preempted to the state. A municipality, county, or other local  
172 governmental entity may not adopt, enforce, or implement any  
173 ordinance, rule, or law that would restrict a food service  
174 establishment from distributing single-use plastic straws to  
175 customers.

176 Section 8. Paragraph (b) of subsection (1) of section  
177 429.41, Florida Statutes, is amended to read:

178 429.41 Rules establishing standards.—

179 (1) It is the intent of the Legislature that rules  
180 published and enforced pursuant to this section shall include  
181 criteria by which a reasonable and consistent quality of  
182 resident care and quality of life may be ensured and the results  
183 of such resident care may be demonstrated. Such rules shall also  
184 ensure a safe and sanitary environment that is residential and  
185 noninstitutional in design or nature. It is further intended  
186 that reasonable efforts be made to accommodate the needs and  
187 preferences of residents to enhance the quality of life in a  
188 facility. Uniform firesafety standards for assisted living  
189 facilities shall be established by the State Fire Marshal  
190 pursuant to s. 633.206. The agency, in consultation with the  
191 department, may adopt rules to administer the requirements of  
192 part II of chapter 408. In order to provide safe and sanitary  
193 facilities and the highest quality of resident care  
194 accommodating the needs and preferences of residents, the  
195 department, in consultation with the agency, the Department of  
196 Children and Families, and the Department of Health, shall adopt  
197 rules, policies, and procedures to administer this part, which  
198 must include reasonable and fair minimum standards in relation  
199 to:

200 (b) The preparation and annual update of a comprehensive

201 emergency management plan. Such standards must be included in  
202 the rules adopted by the department after consultation with the  
203 Division of Emergency Management.

204 1. At a minimum, the rules must provide for plan  
205 components that address emergency evacuation transportation;  
206 adequate sheltering arrangements; postdisaster activities,  
207 including provision of emergency power, food, and water;  
208 postdisaster transportation; supplies; staffing; emergency  
209 equipment; individual identification of residents and transfer  
210 of records; communication with families; and responses to family  
211 inquiries.

212 2. The comprehensive emergency management plan must  
213 address the facility's ability to maintain indoor air  
214 temperatures in common areas of the building within the  
215 temperatures established in the agency rule for assisted living  
216 facilities in the event of a facility's loss of primary  
217 electrical power. Any facility acting as a receiving provider  
218 under s. 408.821(2) may exceed any minimum square footage  
219 requirements adopted by agency rule that are associated with the  
220 temperature requirements of this subparagraph until such time as  
221 the facility is no longer acting as a receiving provider.

222 3. The comprehensive emergency management plan is subject  
223 to review and approval by the county ~~local~~ emergency management  
224 agency. During its review, the county ~~local~~ emergency management  
225 agency shall ensure that the following agencies, at a minimum,

226 are given the opportunity to review the plan: the Department of  
227 Elderly Affairs, the Department of Health, the Agency for Health  
228 Care Administration, and the Division of Emergency Management.  
229 Also, appropriate volunteer organizations must be given the  
230 opportunity to review the plan. The county ~~local~~ emergency  
231 management agency shall complete its review within 60 days and  
232 either approve the plan or advise the facility of necessary  
233 revisions.

234 4. The comprehensive emergency management plan must be  
235 submitted to the county emergency management agency within 30  
236 days after issuance of a license.

237 5. For facilities licensed before June 1, 2020, the  
238 provision of emergency power sufficient to maintain indoor air  
239 temperatures required under subparagraph 2. must be acquired and  
240 maintained at the facility by June 1, 2020. Before June 1, 2020,  
241 or until the requirements under subparagraph 2. are met, a  
242 facility located in an area covered by a declared state of  
243 emergency must either fully and safely evacuate its residents  
244 before the arrival of the event or have an alternative power  
245 source and 96 hours of fuel stored onsite within 24 hours after  
246 the issuance of the state of emergency.

247 6. A municipality, county, or other local governmental  
248 entity may not adopt, enforce, or implement any ordinance, rule,  
249 or law that would impose additional requirements for maximum  
250 fuel supply or safe temperature and cooling requirements related

251 to the comprehensive emergency management plan.

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

254 499.002 Purpose, administration, and enforcement of and  
255 exemption from this part; preemption.—

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

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

260 526.143 Alternate generated power capacity for motor fuel  
261 dispensing facilities; preemption.—

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

265 Section 11. Section 569.008, Florida Statutes, is amended  
266 to read:

267 569.008 Responsible retail tobacco products dealers;  
268 qualifications; mitigation of disciplinary penalties; diligent  
269 management and supervision; presumption; preemption.—As used in  
270 this section, the terms "nicotine product" and "nicotine  
271 dispensing device" have the same meanings as provided in s.  
272 877.112.

273 (1) The Legislature intends to prevent the sale and  
274 delivery of tobacco products, nicotine products, and nicotine  
275 dispensing devices to persons under 18 years of age and to

276 encourage retail tobacco products dealers to comply with  
277 responsible practices in accordance with this section.

278 (2) To qualify as a responsible retail tobacco products  
279 dealer, the dealer must establish and implement procedures  
280 designed to ensure that the dealer's employees comply with the  
281 provisions of this chapter. The dealer must provide a training  
282 program for the dealer's employees which addresses the use, and  
283 sale, and delivery of tobacco products, nicotine products, and  
284 nicotine dispensing devices and which includes at least the  
285 following topics:

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

288 (b) Methods of recognizing and handling customers under 18  
289 years of age.

290 (c) Procedures for proper examination of identification  
291 cards in order to verify that customers are not under 18 years  
292 of age.

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

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

300 (a) The dealer is qualified as a responsible dealer under

301 this section.

302 (b) The dealer provided the training program required  
303 under subsection (2) to that employee before the illegal sale  
304 occurred.

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

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

310 (4) The division shall develop and make available a model  
311 tobacco products, nicotine products, and nicotine dispensing  
312 devices training program designed to ensure adherence to this  
313 act by dealers and their employees which, if followed, will  
314 qualify dealers as responsible dealers.

315 (5) Dealers shall exercise diligence in the management and  
316 supervision of their premises and in the supervision and  
317 training of their employees, agents, or servants. In proceedings  
318 to impose penalties under s. 569.006, proof that employees,  
319 agents, or servants of the dealer, while in the scope of their  
320 employment, committed at least three violations of s. 569.101  
321 during a 180-day period shall be prima facie evidence of a lack  
322 of due diligence by the dealer in the management and supervision  
323 of his or her premises and in the supervision and training of  
324 employees, agents, officers, or servants.

325 (6) The division may consider qualification as a

326 responsible retail tobacco products dealer under this section as  
327 evidence that the dealer properly exercised the diligence  
328 required under this section.

329 (7) The establishment of the minimum age for the sale,  
330 purchase, or delivery of tobacco products, nicotine products,  
331 and nicotine dispensing devices is preempted to the state. The  
332 regulation of the marketing of tobacco products, nicotine  
333 products, and nicotine dispensing devices is preempted to the  
334 state.

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