

1 A bill to be entitled
2 An act relating to governmental powers; amending s.
3 163.31801, F.S.; prohibiting a local governmental
4 entity from authorizing its district school board's
5 impact fee under certain circumstances; amending s.
6 166.045, F.S.; prohibiting a municipality from
7 purchasing specified real properties under certain
8 circumstances; amending s. 171.042, F.S.; prohibiting
9 a municipality from annexing specified areas under
10 certain circumstances; amending s. 210.03, F.S.;
11 prohibiting a municipality from levying or collecting
12 specified taxes on certain products and devices after
13 a specified date; creating s. 210.305, F.S.;
14 prohibiting a municipality from levying or collecting
15 specified taxes on certain products and devices after
16 a specified date; amending s. 252.363, F.S.; revising
17 the circumstances under which a state of emergency
18 declaration tolls and extends the remaining period for
19 certain permits and authorizations; amending s.
20 400.23, F.S.; prohibiting a municipality, county, or
21 other local governmental entity from imposing
22 additional requirements for maximum fuel supply or
23 safe temperature and cooling requirements related to
24 the comprehensive emergency management plan of nursing
25 homes and related care facilities; creating s.

26 | 403.7034, F.S.; providing definitions; preempting the
27 | regulation of single-use plastic straws to the state;
28 | amending s. 429.41, F.S.; requiring the comprehensive
29 | emergency management plan of assisted living
30 | facilities to address the facilities' ability to
31 | maintain indoor air temperatures within specified
32 | temperatures under certain circumstances; authorizing
33 | assisted living facilities to exceed minimum square
34 | footage requirements under certain circumstances;
35 | specifying that the county has review and approval
36 | authority over the comprehensive emergency management
37 | plan; specifying submittal timeframe for the plan;
38 | extending the compliance deadline to a specified date;
39 | providing facility requirements in a declared state of
40 | emergency under certain circumstances; prohibiting a
41 | municipality, county, or other local governmental
42 | entity from imposing additional requirements for
43 | maximum fuel supply or safe temperature and cooling
44 | requirements related to the comprehensive emergency
45 | management plan of assisted care communities; amending
46 | s. 499.002, F.S.; preempting the regulation of over-
47 | the-counter proprietary drugs and cosmetics to the
48 | state; amending s. 526.143, F.S.; preempting the
49 | establishment of the requirements for alternate
50 | generated power sources to the state and to the

51 Division of Emergency Management; amending s. 569.008,
52 F.S.; revising the legislative intent; revising the
53 training program requirements for the tobacco products
54 dealer's employees; revising the model training
55 program developed by the Division of Alcoholic
56 Beverages and Tobacco; preempting the establishment of
57 the minimum age for the sale, purchase, or delivery of
58 tobacco products, nicotine products, and nicotine
59 dispensing devices to the state; preempting the
60 regulation of the marketing of such products and
61 devices to the state; providing an effective date.

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

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65 Section 1. Subsection (6) is added to section 163.31801,
66 Florida Statutes, to read:

67 163.31801 Impact fees; short title; intent; definitions;
68 ordinances levying impact fees.—

69 (6) A local governmental entity may not authorize or
70 approve its district school board's impact fee if the fee
71 results in an increase of 5 percent or more over a 2-year
72 period.

73 Section 2. Subsection (2) of section 166.045, Florida
74 Statutes, is renumbered as subsection (3), and a new subsection
75 (2) is added to that section, to read:

76 | 166.045 Proposed purchase of real property by
77 | municipality; confidentiality of records; procedure.—

78 | (2) Except as otherwise provided in s. 171.205, a
79 | municipality may not purchase real property within another
80 | municipality's jurisdictional boundaries without the other
81 | municipality's consent.

82 | Section 3. Subsection (4) is added to section 171.042,
83 | Florida Statutes, to read:

84 | 171.042 Prerequisites to annexation.—

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

88 | Section 4. Section 210.03, Florida Statutes, is amended to
89 | read:

90 | 210.03 Prohibition against levying of ~~cigarette~~ taxes on
91 | cigarettes, cigars, and nicotine products and dispensing devices
92 | by municipalities.—A ~~No~~ municipality may not shall, after July
93 | 1, 1972, levy or collect any excise tax on cigarettes, and after
94 | July 1, 2019, levy or collect any excise tax on cigars, nicotine
95 | products, as defined in s. 877.112, and nicotine dispensing
96 | devices, as defined in s. 877.112.

97 | Section 5. Section 210.305, Florida Statutes, is created
98 | to read:

99 | 210.305 Prohibition against levying of taxes on tobacco
100 | products, nicotine products, and nicotine dispensing devices by

101 municipalities.—A municipality may not levy or collect any
102 excise tax on tobacco products, nicotine products, as defined in
103 s. 877.112, and nicotine dispensing devices, as defined in s.
104 877.112.

105 Section 6. Paragraph (a) of subsection (1) of section
106 252.363, Florida Statutes, is amended to read:

107 252.363 Tolling and extension of permits and other
108 authorizations.—

109 (1) (a) The declaration of a state of emergency issued by
110 the Governor for a natural emergency tolls the period remaining
111 to exercise the rights under a permit or other authorization for
112 the duration of the emergency declaration. Further, the
113 emergency declaration extends the period remaining to exercise
114 the rights under a permit or other authorization for 6 months in
115 addition to the tolled period if the emergency declaration, or a
116 renewed emergency declaration, affects the ability of the holder
117 of the permit or other authorization to perform the work
118 required under the permit or authorization. This paragraph
119 applies to the following:

120 1. The expiration of a development order issued by a local
121 government.

122 2. The expiration of a building permit.

123 3. The expiration of a permit issued by the Department of
124 Environmental Protection or a water management district pursuant
125 to part IV of chapter 373.

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

129 Section 7. Paragraph (g) of subsection (2) of section
130 400.23, Florida Statutes, is amended to read:

131 400.23 Rules; evaluation and deficiencies; licensure
132 status.—

133 (2) Pursuant to the intention of the Legislature, the
134 agency, in consultation with the Department of Health and the
135 Department of Elderly Affairs, shall adopt and enforce rules to
136 implement this part and part II of chapter 408, which shall
137 include reasonable and fair criteria in relation to:

138 (g) The preparation and annual update of a comprehensive
139 emergency management plan. The agency shall adopt rules
140 establishing minimum criteria for the plan after consultation
141 with the Division of Emergency Management. At a minimum, the
142 rules must provide for plan components that address emergency
143 evacuation transportation; adequate sheltering arrangements;
144 postdisaster activities, including emergency power, food, and
145 water; postdisaster transportation; supplies; staffing;
146 emergency equipment; individual identification of residents and
147 transfer of records; and responding to family inquiries. The
148 comprehensive emergency management plan is subject to review and
149 approval by the local emergency management agency. During its
150 review, the local emergency management agency shall ensure that

151 the following agencies, at a minimum, are given the opportunity
152 to review the plan: the Department of Elderly Affairs, the
153 Department of Health, the Agency for Health Care Administration,
154 and the Division of Emergency Management. Also, appropriate
155 volunteer organizations must be given the opportunity to review
156 the plan. The local emergency management agency shall complete
157 its review within 60 days and either approve the plan or advise
158 the facility of necessary revisions. A municipality, county, or
159 other local governmental entity may not adopt, enforce, or
160 implement any ordinance, rule, or law that would impose
161 additional requirements for maximum fuel supply or safe
162 temperature and cooling requirements related to the
163 comprehensive emergency management plan.

164 Section 8. Section 403.7034, Florida Statutes, is created
165 to read:

166 403.7034 Single-use plastic straws; preemption.—

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

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

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

174 (c) "Plastic straw" means a disposable straw made
175 predominantly of plastic derived from petroleum or a

176 biologically based polymer, such as corn or other plant sources,
177 which is used to transfer a beverage from a container to the
178 mouth of the person drinking the beverage. The term does not
179 include a straw made from nonplastic materials, including, but
180 not limited to, paper, wood, or bamboo.

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

184 (2) The regulation of single-use plastic straws is
185 preempted to the state. A municipality, county, or other local
186 governmental entity may not adopt, enforce, or implement any
187 ordinance, rule, or law that would restrict a food service
188 establishment from distributing single-use plastic straws to
189 customers.

190 Section 9. Paragraph (b) of subsection (1) of section
191 429.41, Florida Statutes, is amended to read:

192 429.41 Rules establishing standards.—

193 (1) It is the intent of the Legislature that rules
194 published and enforced pursuant to this section shall include
195 criteria by which a reasonable and consistent quality of
196 resident care and quality of life may be ensured and the results
197 of such resident care may be demonstrated. Such rules shall also
198 ensure a safe and sanitary environment that is residential and
199 noninstitutional in design or nature. It is further intended
200 that reasonable efforts be made to accommodate the needs and

201 preferences of residents to enhance the quality of life in a
202 facility. Uniform firesafety standards for assisted living
203 facilities shall be established by the State Fire Marshal
204 pursuant to s. 633.206. The agency, in consultation with the
205 department, may adopt rules to administer the requirements of
206 part II of chapter 408. In order to provide safe and sanitary
207 facilities and the highest quality of resident care
208 accommodating the needs and preferences of residents, the
209 department, in consultation with the agency, the Department of
210 Children and Families, and the Department of Health, shall adopt
211 rules, policies, and procedures to administer this part, which
212 must include reasonable and fair minimum standards in relation
213 to:

214 (b) The preparation and annual update of a comprehensive
215 emergency management plan. Such standards must be included in
216 the rules adopted by the department after consultation with the
217 Division of Emergency Management.

218 1. At a minimum, the rules must provide for plan
219 components that address emergency evacuation transportation;
220 adequate sheltering arrangements; postdisaster activities,
221 including provision of emergency power, food, and water;
222 postdisaster transportation; supplies; staffing; emergency
223 equipment; individual identification of residents and transfer
224 of records; communication with families; and responses to family
225 inquiries.

226 2. The comprehensive emergency management plan must
227 address the facility's ability to maintain indoor air
228 temperatures in common areas of the building within the
229 temperatures established in the agency rule for assisted living
230 facilities in the event of a facility's loss of primary
231 electrical power. Any facility acting as a receiving provider
232 under s. 408.821(2) may exceed any minimum square footage
233 requirements adopted by agency rule that are associated with the
234 temperature requirements of this subparagraph until such time as
235 the facility is no longer acting as a receiving provider.

236 3. The comprehensive emergency management plan is subject
237 to review and approval by the county ~~local~~ emergency management
238 agency. During its review, the county ~~local~~ emergency management
239 agency shall ensure that the following agencies, at a minimum,
240 are given the opportunity to review the plan: the Department of
241 Elderly Affairs, the Department of Health, the Agency for Health
242 Care Administration, and the Division of Emergency Management.
243 Also, appropriate volunteer organizations must be given the
244 opportunity to review the plan. The county ~~local~~ emergency
245 management agency shall complete its review within 60 days and
246 either approve the plan or advise the facility of necessary
247 revisions.

248 4. The comprehensive emergency management plan must be
249 submitted to the county emergency management agency within 30
250 days after issuance of a license.

251 5. For facilities licensed before June 1, 2020, the
252 provision of emergency power sufficient to maintain indoor air
253 temperatures required under subparagraph 2. must be acquired and
254 maintained at the facility by June 1, 2020. Before June 1, 2020,
255 or until the requirements under subparagraph 2. are met, a
256 facility located in an area covered by a declared state of
257 emergency must either fully and safely evacuate its residents
258 before the arrival of the event or have an alternative power
259 source and 96 hours of fuel stored onsite within 24 hours after
260 the issuance of the state of emergency.

261 6. A municipality, county, or other local governmental
262 entity may not adopt, enforce, or implement any ordinance, rule,
263 or law that would impose additional requirements for maximum
264 fuel supply or safe temperature and cooling requirements related
265 to the comprehensive emergency management plan.

266 Section 10. Subsection (7) is added to section 499.002,
267 Florida Statutes, to read:

268 499.002 Purpose, administration, and enforcement of and
269 exemption from this part; preemption.—

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

272 Section 11. Subsection (6) is added to section 526.143,
273 Florida Statutes, to read:

274 526.143 Alternate generated power capacity for motor fuel
275 dispensing facilities; preemption.—

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

279 Section 12. Section 569.008, Florida Statutes, is amended
280 to read:

281 569.008 Responsible retail tobacco products dealers;
282 qualifications; mitigation of disciplinary penalties; diligent
283 management and supervision; presumption; preemption.—As used in
284 this section, the terms "nicotine product" and "nicotine
285 dispensing device" have the same meanings as provided in s.
286 877.112.

287 (1) The Legislature intends to prevent the sale and
288 delivery of tobacco products, nicotine products, and nicotine
289 dispensing devices to persons under 18 years of age and to
290 encourage retail tobacco products dealers to comply with
291 responsible practices in accordance with this section.

292 (2) To qualify as a responsible retail tobacco products
293 dealer, the dealer must establish and implement procedures
294 designed to ensure that the dealer's employees comply with the
295 provisions of this chapter. The dealer must provide a training
296 program for the dealer's employees which addresses the use, and
297 sale, and delivery of tobacco products, nicotine products, and
298 nicotine dispensing devices and which includes at least the
299 following topics:

300 (a) Laws covering the sale and delivery of tobacco

301 products, nicotine products, and nicotine dispensing devices.

302 (b) Methods of recognizing and handling customers under 18
303 years of age.

304 (c) Procedures for proper examination of identification
305 cards in order to verify that customers are not under 18 years
306 of age.

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

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

314 (a) The dealer is qualified as a responsible dealer under
315 this section.

316 (b) The dealer provided the training program required
317 under subsection (2) to that employee before the illegal sale
318 occurred.

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

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

324 (4) The division shall develop and make available a model
325 tobacco products, nicotine products, and nicotine dispensing

326 devices training program designed to ensure adherence to this
327 act by dealers and their employees which, if followed, will
328 qualify dealers as responsible dealers.

329 (5) Dealers shall exercise diligence in the management and
330 supervision of their premises and in the supervision and
331 training of their employees, agents, or servants. In proceedings
332 to impose penalties under s. 569.006, proof that employees,
333 agents, or servants of the dealer, while in the scope of their
334 employment, committed at least three violations of s. 569.101
335 during a 180-day period shall be prima facie evidence of a lack
336 of due diligence by the dealer in the management and supervision
337 of his or her premises and in the supervision and training of
338 employees, agents, officers, or servants.

339 (6) The division may consider qualification as a
340 responsible retail tobacco products dealer under this section as
341 evidence that the dealer properly exercised the diligence
342 required under this section.

343 (7) The establishment of the minimum age for the sale,
344 purchase, or delivery of tobacco products, nicotine products,
345 and nicotine dispensing devices is preempted to the state. The
346 regulation of the marketing of tobacco products, nicotine
347 products, and nicotine dispensing devices is preempted to the
348 state.

349 Section 13. This act shall take effect July 1, 2019.