

By the Committee on Commerce and Tourism; and Senator Martin

577-02159-24

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1 A bill to be entitled  
2 An act relating to regulation of auxiliary containers;  
3 amending s. 403.703, F.S.; defining the term  
4 "auxiliary container"; conforming cross-references;  
5 amending s. 403.7033, F.S.; deleting obsolete  
6 provisions requiring the Department of Environmental  
7 Protection to review and update a specified report;  
8 expressly preempting the regulation of auxiliary  
9 containers to the state; amending s. 403.707, F.S.;  
10 conforming cross-references; providing an effective  
11 date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15 Section 1. Present subsections (2) through (48) of section  
16 403.703, Florida Statutes, are redesignated as subsections (3)  
17 through (49), respectively, a new subsection (2) is added to  
18 that section, and present subsection (35) of that section is  
19 amended, to read:

20 403.703 Definitions.—As used in this part, the term:

21 (2) "Auxiliary container" means a reusable or single-use  
22 bag, cup, bottle, or other packaging that meets both of the  
23 following requirements:

24 (a) Is made of cloth; paper; plastic, including, but not  
25 limited to, foamed plastic, expanded plastic, or polystyrene;  
26 cardboard; molded fiber; corrugated material; aluminum; glass;  
27 postconsumer recycled material; or similar material or  
28 substrates, including coated, laminated, or multilayer  
29 substrates.

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30        (b) Is designed for transporting, consuming, or protecting  
31 merchandise, food, or beverages from or at a public food service  
32 establishment as defined in s. 509.013(5), a food establishment  
33 as defined in s. 500.03(1), or a retailer as defined in s.  
34 212.02(13).

35        ~~(36)~~~~(35)~~ "Solid waste" means sludge unregulated under the  
36 federal Clean Water Act or Clean Air Act, sludge from a waste  
37 treatment works, water supply treatment plant, or air pollution  
38 control facility, or garbage, rubbish, refuse, special waste, or  
39 other discarded material, including solid, liquid, semisolid, or  
40 contained gaseous material resulting from domestic, industrial,  
41 commercial, mining, agricultural, or governmental operations.  
42 Recovered materials as defined in subsection (29) ~~(28)~~ and post-  
43 use polymers as defined in subsection (25) ~~(24)~~ are not solid  
44 waste.

45        Section 2. Section 403.7033, Florida Statutes, is amended  
46 to read:

47        403.7033 Preemption of regulation for auxiliary containers  
48 ~~Departmental analysis of particular recyclable materials. The~~  
49 ~~Legislature finds that prudent regulation of recyclable~~  
50 ~~materials is crucial to the ongoing welfare of Florida's ecology~~  
51 ~~and economy. As such, the Department of Environmental Protection~~  
52 ~~shall review and update its 2010 report on retail bags analyzing~~  
53 ~~the need for new or different regulation of auxiliary~~  
54 ~~containers, wrappings, or disposable plastic bags used by~~  
55 ~~consumers to carry products from retail establishments. The~~  
56 ~~updated report must include input from state and local~~  
57 ~~government agencies, stakeholders, private businesses, and~~  
58 ~~citizens and must evaluate the efficacy and necessity of both~~

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59 ~~statewide and local regulation of these materials. To ensure~~  
60 ~~consistent and effective implementation, the department shall~~  
61 ~~submit the updated report with conclusions and recommendations~~  
62 ~~to the Legislature no later than December 31, 2021. Until such~~  
63 ~~time that the Legislature adopts the recommendations of the~~  
64 ~~department,~~ A local government, local governmental agency, or  
65 state governmental agency may not enact any rule, regulation, or  
66 ordinance regarding use, disposition, sale, prohibition,  
67 restriction, or tax of ~~such~~ auxiliary containers. The regulation  
68 of auxiliary containers is expressly preempted to the state,  
69 ~~wrappings, or disposable plastic bags.~~

70 Section 3. Paragraph (j) of subsection (9) of section  
71 403.707, Florida Statutes, is amended to read:

72 403.707 Permits.—

73 (9) The department shall establish a separate category for  
74 solid waste management facilities that accept only construction  
75 and demolition debris for disposal or recycling. The department  
76 shall establish a reasonable schedule for existing facilities to  
77 comply with this section to avoid undue hardship to such  
78 facilities. However, a permitted solid waste disposal unit that  
79 receives a significant amount of waste prior to the compliance  
80 deadline established in this schedule shall not be required to  
81 be retrofitted with liners or leachate control systems.

82 (j) The Legislature recognizes that recycling, waste  
83 reduction, and resource recovery are important aspects of an  
84 integrated solid waste management program and as such are  
85 necessary to protect the public health and the environment. If  
86 necessary to promote such an integrated program, the county may  
87 determine, after providing notice and an opportunity for a

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88 hearing prior to April 30, 2008, that some or all of the  
89 material described in s. 403.703(7)(b) ~~s. 403.703(6)(b)~~ shall be  
90 excluded from the definition of "construction and demolition  
91 debris" in s. 403.703(7) ~~s. 403.703(6)~~ within the jurisdiction  
92 of such county. The county may make such a determination only if  
93 it finds that, prior to June 1, 2007, the county has established  
94 an adequate method for the use or recycling of such wood  
95 material at an existing or proposed solid waste management  
96 facility that is permitted or authorized by the department on  
97 June 1, 2007. The county is not required to hold a hearing if  
98 the county represents that it previously has held a hearing for  
99 such purpose, or if the county represents that it previously has  
100 held a public meeting or hearing that authorized such method for  
101 the use or recycling of trash or other nonputrescible waste  
102 materials and that such materials include those materials  
103 described in s. 403.703(7)(b) ~~s. 403.703(6)(b)~~. The county shall  
104 provide written notice of its determination to the department by  
105 no later than April 30, 2008; thereafter, the materials  
106 described in s. 403.703(7) ~~s. 403.703(6)~~ shall be excluded from  
107 the definition of "construction and demolition debris" in s.  
108 403.703(7) ~~s. 403.703(6)~~ within the jurisdiction of such county.  
109 The county may withdraw or revoke its determination at any time  
110 by providing written notice to the department.

111 Section 4. This act shall take effect July 1, 2024.