

By Senator Martin

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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"; amending s. 403.7033, F.S.;
5 removing obsolete provisions requiring the Department
6 of Environmental Protection to review and update a
7 specified report; prohibiting local regulation of
8 auxiliary containers; preempting such regulation to
9 the state; amending s. 403.707, F.S.; conforming
10 cross-references; providing an effective date.

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

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

19 403.703 Definitions.—As used in this part, the term:

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

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

29 (b) Is designed for transporting, consuming, or protecting

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30 merchandise, food, or beverages from or at a public food service
31 establishment as defined in s. 509.013(5), a food establishment
32 as defined in s. 500.03(1), or a retailer as defined in s.
33 212.02(13).

34 (36) ~~(35)~~ "Solid waste" means sludge unregulated under the
35 federal Clean Water Act or Clean Air Act, sludge from a waste
36 treatment works, water supply treatment plant, or air pollution
37 control facility, or garbage, rubbish, refuse, special waste, or
38 other discarded material, including solid, liquid, semisolid, or
39 contained gaseous material resulting from domestic, industrial,
40 commercial, mining, agricultural, or governmental operations.
41 Recovered materials as defined in subsection (29) ~~(28)~~ and post-
42 use polymers as defined in subsection (25) ~~(24)~~ are not solid
43 waste.

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

46 403.7033 Preemption of regulation for auxiliary containers
47 ~~Departmental analysis of particular recyclable materials. The~~
48 ~~Legislature finds that prudent regulation of recyclable~~
49 ~~materials is crucial to the ongoing welfare of Florida's ecology~~
50 ~~and economy. As such, the Department of Environmental Protection~~
51 ~~shall review and update its 2010 report on retail bags analyzing~~
52 ~~the need for new or different regulation of auxiliary~~
53 ~~containers, wrappings, or disposable plastic bags used by~~
54 ~~consumers to carry products from retail establishments. The~~
55 ~~updated report must include input from state and local~~
56 ~~government agencies, stakeholders, private businesses, and~~
57 ~~citizens and must evaluate the efficacy and necessity of both~~
58 ~~statewide and local regulation of these materials. To ensure~~

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

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

71 403.707 Permits.—

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

81 (j) The Legislature recognizes that recycling, waste
82 reduction, and resource recovery are important aspects of an
83 integrated solid waste management program and as such are
84 necessary to protect the public health and the environment. If
85 necessary to promote such an integrated program, the county may
86 determine, after providing notice and an opportunity for a
87 hearing prior to April 30, 2008, that some or all of the

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

110 Section 4. This act shall take effect July 1, 2025.