

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: SB 240

INTRODUCER: Senators Garcia and Smith

SUBJECT: Auxiliary Containers

DATE: November 17, 2025 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barriero	Rogers	EN	Pre-meeting
2.			AEG	
3.			FP	

I. Summary:

SB 240 directs the Department of Environmental Protection (DEP) to develop a uniform ordinance for the use and disposal of single-use, nonrecyclable auxiliary containers which may be adopted and enforced by local governments. The uniform ordinance must include measures to limit the distribution and use of such auxiliary containers through bans, fees, or deposit systems; promote recyclable, compostable, or reusable containers; establish waste reduction and collection programs; and create enforcement mechanisms for noncompliance. To develop the ordinance, DEP must collaborate with a broad range of stakeholders and hold at least three public workshops in different regions of the state. The bill directs DEP to begin workshops no later than October 1, 2026, and finalize the uniform ordinance by October 1, 2027.

The bill prohibits local governments from enacting rules, regulations, or ordinances regarding the use, disposition, sale, prohibition, restriction, or tax of auxiliary containers that are inconsistent with this bill. The bill does not prohibit rules, regulations, or ordinances that restrict:

- The use of glass auxiliary containers on public property.
- The use, sale, or distribution of single-use plastic auxiliary containers on public property.
- The use, sale, or distribution of auxiliary containers under rules, regulations, or ordinances enacted before January 1, 2026.

Within state parks, the bill prohibits the sale or distribution of single-use plastic auxiliary containers and the use, sale, or distribution of polystyrene foam containers.

The bill also directs DEP to develop a statewide Marine Debris Reduction Plan by December 31, 2026. The bill specifies the minimum requirements for the plan.

II. Present Situation:

Marine Debris

Marine debris is any persistent solid materials that is manufactured or processed and disposed of or abandoned into the marine environment.¹ It can harm wildlife, damage sensitive habitats, create safety and navigation hazards, and negatively impact the economy by deterring tourism and reducing fishing yields.² Some of the most common types of marine debris include cigarette butts, plastic bottles and bags, food wrappers, disposable cups and cutlery, foamed plastic, and abandoned fishing gear.³ Marine debris can range in size from small microplastics to large derelict vessels, construction debris, and household appliances.⁴

Marine debris in Florida is generated from multiple sources, including land-based debris from inland and densely populated coastal areas, and ocean-based debris from commercial and recreational activities in the Atlantic and Gulf, including boating, fisheries, and aquaculture.⁵ Florida is also vulnerable to regularly occurring natural disasters, such as hurricanes, that can result in acute debris incidents.⁶

In 2017, the National Oceanic and Atmospheric Administration (NOAA) coordinated with the Department of Environmental Protection (DEP) to publish a Marine Debris Reduction Guidance Plan.⁷ NOAA updated the Plan in April 2020.⁸ The Plan is voluntary and designed to be a living document updated every five years. It includes five major goals:

- Reduce the amount of abandoned and derelict vessels;
- Reduce the amount of derelict fishing gear;
- Increase the capacity to respond to emergency debris;
- Increase community action to prevent and reduce marine debris; and
- Provide data and conduct targeted research to reduce the impacts of marine debris, inform decision making, and improve natural resource management.⁹

The Plan also includes strategies and recommended actions to achieve these goals.¹⁰

¹ See 15 C.F.R. 909.1(a).

² National Oceanic and Atmospheric Administration (NOAA) Marine Debris Program, *Why is Marine Debris a Problem?*, <https://marinedebris.noaa.gov/discover-marine-debris/why-marine-debris-problem> (last visited Nov. 3, 2025); NOAA Marine Debris Program, *Economic Loss*, <https://marinedebris.noaa.gov/why-marine-debris-problem/economic-loss> (last visited Nov. 3, 2025).

³ See NOAA, *What is Marine Debris?*, <https://marinedebris.noaa.gov/discover-marine-debris/what-marine-debris> (last visited Nov. 3, 2025); NOAA et al., *An analysis of marine debris in the US*, 4 (2017), available at <https://marinedebris.noaa.gov/other-reports/analysis-marine-debris-us>.

⁴ *Id.*

⁵ NOAA, *2020 Florida Marine Debris Reduction Plan*, 5 (2020), available at <https://marinedebris.noaa.gov/regional-action-plans/florida-marine-debris-reduction-plan>.

⁶ *Id.*

⁷ NOAA and DEP, *Florida Marine Debris Reduction Guidance Plan* (2017), available at <https://floridadep.gov/sites/default/files/FL-Marine-Debris-Reduction-Plan.pdf>.

⁸ See NOAA, *2020 Florida Marine Debris Reduction Plan*, 5 (2020), available at <https://marinedebris.noaa.gov/regional-action-plans/florida-marine-debris-reduction-plan>.

⁹ *Id.* at 6.

¹⁰ *Id.*

There are several programs in Florida to reduce marine debris. For example, DEP, the Florida Fish and Wildlife Conservation Commission, and Palm Beach County Reef Rescue collaborate on a marine debris reporting and removal program for coral reefs in southeast Florida.¹¹ The program encourages local divers and dive shops to report marine debris. Reef cleanup events are organized based on these reports to remove the debris.¹² Another key initiative is the Southeast Florida Action Network (SEAFAN), a citizen reporting and response system designed to improve the protection and management of Southeast Florida's coral reefs through marine debris cleanup efforts, response to vessel groundings and anchor damage, and early detection of potentially harmful biological disturbances.¹³ NOAA also leads several marine debris reduction projects in the state.¹⁴

Auxiliary Containers

Plastics are found in a variety of nondurable products, such as disposable diapers, trash bags, cups, utensils, medical devices, and household items.¹⁵ Plastic food service items are generally made of clear or foamed polystyrene, while trash bags are made of high- or low-density polyethylene.¹⁶

Plastics are a rapidly growing segment of municipal solid waste.¹⁷ The United Nations has estimated that the world consumes between 1 trillion and 5 trillion plastic bags per year.¹⁸ In the United States, fewer than 10 percent of plastic bags are recycled per year.¹⁹ In Florida, about 5-6 million tons of collected municipal solid waste per year are single-use carryout packaging (SUCP).²⁰

¹¹ DEP, *Southeast Florida Marine Debris Reporting and Removal Program*, <https://floridadep.gov/rcp/coral/content/southeast-florida-marine-debris-reporting-and-removal-program> (last visited Nov. 3, 2025).

¹² *Id.*

¹³ DEP, *SEAFAN – The Southeast Florida Action Network*, <https://floridadep.gov/rcp/coral/content/seafan-southeast-florida-action-network> (last visited Nov. 3, 2025).

¹⁴ NOAA, *Florida Keys National Marine Sanctuary: Marine Debris*, <https://floridakeys.noaa.gov/getinvolved/goal-clean-seas.html> (last visited Nov. 10, 2025); NOAA Marine Debris Program, *Marine Debris in Florida*, <https://marinedebris.noaa.gov/your-region/florida> (last visited Nov. 10, 2025).

¹⁵ U.S. Environmental Protection Agency (EPA), *Plastics: Material-Specific Data*, <https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/plastics-material-specific-data> (last visited Oct. 23, 2025).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ United Nations Environment Programme, *Single-Use Plastics: A Roadmap for Sustainability*, viii (2018), available at <https://www.unep.org/resources/report/single-use-plastics-roadmap-sustainability>.

¹⁹ EPA, *Advancing Sustainable Materials Management: 2016 and 2017 Tables and Figures*, 40 (2019), available at https://www.epa.gov/sites/default/files/2019-11/documents/2016_and_2017_facts_and_figures_data_tables_0.pdf.

²⁰ DEP, *Update of the 2010 Retail Bags Report*, 3 (2021), available at <https://floridadep.gov/sites/default/files/FDEP%20Plastic%20Bag%20Report%20Final%20v4.pdf>. In its report, DEP defines SUCP as including (1) auxiliary containers (a secondary container into which a product is placed for transport by a consumer. It includes, but is not limited to, reusable bags, paper bags, gift bags, gift boxes, hat boxes, cloth bags, and food takeout boxes and clamshells. Disposable plastic bags have been intentionally excluded from this definition); (2) wrappings (plastic films that are used to protect and transport the items within them; including, but not limited to, dry-cleaning, meats, fruits, bulk products, sandwiches, and newspaper. The focus for wrappings is on the external wrappings and not materials such as bubble wrap and tissue paper); and (3) disposable plastic bags (disposable plastic film bags used by the consumer to carry products from restaurants and retail establishments in the sale of products and goods. These bags are not necessarily meant to be reused multiple times but may have beneficial secondary uses and may be recycled at certain retail establishments). *Id.* at 2.

Improperly managed SUCP can end up in Florida's environment, littering roads, clogging stormwater systems, polluting freshwater sources, and harming the state's marine ecosystems.²¹ One estimate calculated the amount of all plastics entering Florida's marine environment in 2020 to be roughly 7,000 tons.²² Based on citizen science data, the total number of large litter items collected in 2020 from Florida shorelines was 542,544 units (reported as 102 tons), of which SUCP comprised approximately 10 percent (on a unit basis).²³

The environmental damage caused by auxiliary containers and single-use plastics has prompted a global effort to limit their use.²⁴

State Regulation of Auxiliary Containers

In response to growing concerns regarding the impact of retail plastic bags on the environment, the Legislature enacted s. 403.7033, F.S., in 2008, which required DEP to analyze the need for new or different regulations on auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments.²⁵ DEP submitted its initial report in 2010, and in 2021, the Legislature directed DEP to review and update the report.²⁶ DEP submitted the updated report on December 27, 2021.²⁷ The report recommended that the Legislature consider the following options:

- Ban SUCPs;
- Impose a fee on SUCPs;
- Require recycled content in SUCPs;
- Increase accessibility/opportunities to recycle SUCPs through educational campaigns;
- Set recycling goals;
- Increase education programs on SUCPs usage;
- Require SUCP consumption reduction plan and enact ban or fees if not reached;
- Require alternative bags as option at checkout;
- Implement pilot programs of any of these options in a few key communities that have already expressed interest.²⁸

Section 403.7033, F.S., also prohibits local governments, local governmental agencies, and state government agencies from enacting any rule, regulation, or ordinance regarding the use, disposition, sale, prohibition, restriction, or tax of auxiliary containers, wrappings, or disposable plastic bags until the Legislature adopts DEP's recommendations.²⁹ To date, the Legislature has not adopted any recommendations contained in the report and the prohibition remains in effect.³⁰

²¹ *Id.* at 4.

²² *Id.* at 5.

²³ *Id.*

²⁴ See United Nations Environment Programme, *Resolution adopted by the United Nations Assembly on 15 March 2019: Resolution 4/9: Addressing single-use products pollution*, 1-2 (2019), available at <https://wedocs.unep.org/bitstream/handle/20.500.11822/28473/English.pdf?sequence=3&isAllowed=y>.

²⁵ Ch. 2008-227, s. 96, Laws of Fla.; Section 403.7033, F.S.

²⁶ See ch. 2021-125, s. 1, Laws of Fla.

²⁷ DEP, *Update of the 2010 Retail Bags Report* (2021), available at <https://floridadep.gov/sites/default/files/FDEP%20Plastic%20Bag%20Report%20Final%20v4.pdf>.

²⁸ *Id.* at 10.

²⁹ Section 403.7033, F.S.

³⁰ *Id.*

Under s. 500.90, F.S., the regulation of the use or sale of polystyrene products by entities regulated under the Florida Food Safety Act (chapter 500, F.S.) is preempted to the Department of Agriculture and Consumer Services. This preemption does not apply to local ordinances enacted before January 1, 2016, and does not limit the authority of a local government to restrict the use of polystyrene by individuals or temporary vendors on public property, or entities engaged in a contractual relationship with the local government for the provision of goods or services, unless such use is otherwise preempted by law.

In addition, s. 403.708(9), F.S., provides that the packaging of products manufactured or sold in the state may not be controlled by governmental rule, regulation, or ordinance adopted after March 1, 1974, other than as expressly provided by law.

Local Regulation of Auxiliary Containers

Florida cities have enacted a range of local measures restricting some single-use plastics and polystyrene containers, particularly on city property. Several cities have enacted ordinances prohibiting the use, sale, or distribution of single-use plastic straws or stirrers by retail or food service establishments³¹ Others cities have placed restrictions on polystyrene or Styrofoam products, often limiting their use by city vendors, contractors, or at special events.³² Some cities restrict both single-use plastic straws and polystyrene products,³³ and at least one city prohibits single-use plastic bottles on city property or as part of a city-approved activity or city-located event.³⁴ Several counties have enacted similar restrictions on county property, including the counties of Alachua, Broward, Miami-Dade, Monroe, and Volusia.³⁵ Most of these cities and counties carve out exceptions for prepackaged goods, medical facilities, nursing homes or assisted living facilities, and customers with medical or physical conditions that would make non-plastic alternatives unsuitable.³⁶

Local regulations restricting the use or distribution of auxiliary containers may be vulnerable to preemption challenges under state law. For example, in 2016, the City of Coral Gables enacted an ordinance prohibiting food service providers and stores from selling or using expanded

³¹ City of Delray Beach, Fla., Code of Ordinances, § 121.01; City of Key West, Fla., Code of Ordinances, § 26-313; City of Lauderdale-by-the-Sea, Fla., Code of Ordinances, § 5-8; City of Marco Island, Fla., Code of Ordinances, § 54-39; City of Ormond Beach, Fla., Code of Ordinances, § 11-16; City of Palm Beach, Fla., Code of Ordinances, § 42-401; City of West Palm Beach, Fla., Code of Ordinances, § 34-1.

³² City of Atlantic Beach, Fla., Code of Ordinances, § 5-5; City of Boca Raton, Fla., Code of Ordinances, § 9-110; City of Boynton Beach, Fla., Code of Ordinances, § 15-141; City of Doral, Fla., Code of Ordinances, § 29-60; City of Largo, Fla., Code of Ordinances, § 11-2.

³³ City of Coconut Creek, Fla., Code of Ordinances, §§ 12-71 and 12-73; City of Dania Beach, Fla., Code of Ordinances, §§ 17-134 and 170135; City of Deerfield Beach, Fla., Code of Ordinances, §§ 34-170 and 34-180; City of Fort Lauderdale, Fla., Code of Ordinances, §§ 16-141, 16-153, and 16-154; City of Miami Beach, Fla., Code of Ordinances, §§ 46-92 and 46-213; City of Sarasota, Fla., Code of Ordinances, §§ 16-58 and 16-61; City of St. Petersburg, Fla., Code of Ordinances, § 11-110.

³⁴ Miami Shores Village, Fla., Code of Ordinances, § 15-31.

³⁵ Alachua County, Fla., Code of Ordinances, § 75.211 (prohibiting single-use plastic straws and stirrers); Broward County, Fla., Code of Ordinances, § 27.172; Miami-Dade County, Fla., Code of Ordinances, § 26-1 (prohibiting polystyrene articles on park property); Monroe County, Fla., Code of Ordinances, § 12-191 (prohibiting retail establishments from selling or distributing single-use plastic straws or stirrers); Volusia County, Fla., Code of Ordinances, § 20-273 (prohibiting disposable containers made of plastic or Styrofoam on the beach).

³⁶ See, e.g., City of Miami Beach, Fla., Code of Ordinances, § 46-92; City of Largo, Fla., Code of Ordinances, § 11-3; City of Ormond Beach, Fla., Code of Ordinances, § 11-17; City of Palm Beach, Fla., Code of Ordinances, § 42-401.

polystyrene (i.e. Styrofoam) containers.³⁷ In 2019, the Third District Court of Appeal held that ss. 500.90, 403.7033, and 403.708(9), F.S., expressly preempted the city’s ordinance regulating polystyrene.³⁸

State Preemption

State law recognizes two types of state preemption: express and implied. Express preemption requires a specific legislative statement of intent to preempt a specific area of law.³⁹ In contrast, implied preemption exists if the legislative scheme is so pervasive as to evidence an intent to preempt the particular area and where strong public policy reasons exist for finding such an area to be preempted by the Legislature.⁴⁰

Home Rule Authority

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.⁴¹ Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by vote of the electors.⁴² Likewise, municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide services, and exercise any power for municipal purposes except as otherwise provided by law.⁴³

County governments have authority to provide fire protection, ambulance services, parks and recreation, libraries, museums and other cultural facilities, waste and sewage collection and disposal, and water and alternative water supplies.⁴⁴ Municipalities are afforded broad home rule powers with the exception of annexation, merger, exercise of extraterritorial power, or subjects prohibited or preempted by the Federal or State Constitution, county charter, or statute.⁴⁵

III. Effect of Proposed Changes:

Section 1 amends s. 403.703, F.S., which provides definitions for part IV of ch. 403, F.S. The bill defines “auxiliary container” as a bag, cup, bottle, can, or other packaging that meets both of the following requirements:

- Made of cloth; paper; plastic, including, but not limited to, foamed plastic, expanded plastic, or polystyrene; cardboard and other corrugated material; molded fiber; aluminum; glass; postconsumer recycled material; or similar material or substrates, including coated, laminated, or multilayer substrates;

³⁷ *Fla. Retail Federation v. City of Coral Gables*, 282 So. 3d 889, 891 (Fla. 3d DCA 2019).

³⁸ *Id.* at 896.

³⁹ *City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006).

⁴⁰ *Sarasota Alliance for Fair Elections v. Browning*, 28 So. 3d 880, 886 (Fla. 2010) (quoting *Phantom of Clearwater v. Pinellas County*, 894 So. 2d 1011, 1019 (Fla. 2d DCA 2005)).

⁴¹ FLA. CONST., art. VIII, s. 1.(f).

⁴² FLA. CONST., art. VIII, s. 1.(g).

⁴³ FLA. CONST., art. VIII, s. 2.(b); *see also* s. 166.021(1), F.S.

⁴⁴ Sections 125.01(1)(d)(e)(f) and (k)1., F.S.

⁴⁵ Section 166.021(3), F.S.

- Designed for transporting, consuming, or protecting merchandise, food, or beverages from or at a public food service establishment,⁴⁶ a food establishment,⁴⁷ or a retailer.⁴⁸

The bill defines “single-use” as designed to be used once and then discarded and not designed for repeated use and sanitizing.

Section 2 amends s. 403.7033, F.S., regarding the analysis of certain recyclable materials by the Department of Environmental Protection (DEP). The bill retitles the section as “Regulation of auxiliary containers.” The bill provides that a local government or local governmental agency may not enact any rule, regulation, or ordinance regarding the use, disposition, sale, prohibition, restriction, or tax of auxiliary containers which is inconsistent with this section. The bill provides that this subsection does not apply to rules, regulations, or ordinances that:

- Restrict the use of glass auxiliary containers within the boundaries of any public property.
- Restrict the use, sale, or distribution of auxiliary containers enacted before January 1, 2026.
- Restrict the use, sale, or distribution of single-use plastic auxiliary containers within the boundaries of any public property.

The bill requires DEP to develop a uniform ordinance for the use and disposal of single-use, nonrecyclable auxiliary containers which may be adopted and enforced by local governments. To develop the uniform ordinance and encourage cooperation and consensus building, DEP must collaborate with a broad range of stakeholders, including local governments, environmental groups, businesses, and other interested parties. DEP must hold at least three public workshops with such stakeholders and allow public participation in person and through communications media technology. DEP must hold these workshops in different regions of the state to maximize public participation.

In developing the uniform ordinance, DEP must advance measures in furtherance of the following:

- Limiting the distribution and use of single-use, nonrecyclable auxiliary containers through bans, fees, or deposit systems.
- Promoting the use of recyclable or compostable auxiliary containers and encouraging businesses to offer voluntary incentives for customers to bring reusable auxiliary containers.
- Establishing waste reduction and collection programs for single-use auxiliary containers.
- Creating enforcement mechanisms, including penalties, for businesses that do not comply with auxiliary container regulations.

⁴⁶ “Public food service establishment” means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption. Section 509.013(5)(a), F.S. The definition excludes several types of entities, such as places maintained and operated by churches and public or private schools, colleges, or universities, or any theater or place of business where the food available for consumption is limited to beverages, popcorn, or prepackaged items. Section 509.013(5)(b), F.S.

⁴⁷ “Food establishment” means a factory, food outlet, or other facility manufacturing, processing, packing, holding, storing, or preparing food or selling food at wholesale or retail. Certain exceptions apply. Section 500.03(1)(p), F.S.

⁴⁸ “Retailer” means and includes every person engaged in the business of making sales at retail or for distribution, or use, or consumption, or storage to be used or consumed in this state. Section 212.02(13), F.S.

The bill directs DEP to begin engaging with stakeholders through workshops and solicitation no later than October 1, 2026, and finalize the uniform ordinance by October 1, 2027.

The bill also prohibits the following on any lands managed by DEP's Division of Recreation and Parks:

- The sale or distribution of single-use plastic auxiliary containers.
- The use, sale, or distribution of single-use auxiliary containers that contain polystyrene foam.

The bill requires DEP to develop and make available on its website a statewide Marine Debris Reduction Plan by December 31, 2026. At a minimum, the plan must include:

- Recommendations for data collection and reporting protocols.
- Identification of key infrastructure or policy gaps regarding persistent litter into marine and coastal environments.
- Strategies for reducing the generation and discharge of plastics, polystyrene, and other persistent litter into marine and coastal environments.
- A proposed funding and implementation framework.
- Recommendations for a competitive grant program to provide financial assistance to local governments and nonprofits to reduce marine debris.

In addition, the bill removes provisions that:

- Emphasized legislative intent that prudent regulation of recyclable materials is crucial to the ongoing welfare of Florida's ecology and economy;
- Required DEP to review and update its 2010 report on retail bags that included input from stakeholders analyzing the need for new or different regulation of auxiliary containers;
- Prohibited local or state government agencies from enacting any rule, regulation, or ordinance, until the Legislature adopts DEP's recommendations.

Section 3 repeals s. 500.90, F.S., which preempts the regulation of polystyrene products to the Department of Agriculture and Consumer Services.

Section 4 makes conforming changes.

Section 5 provides an effective date of July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on the Department of Environmental Protection related to the costs of developing the uniform ordinance and the marine debris reduction plan required by this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 403.703, 403.7033, and 403.707.

This bill repeals section 500.90 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.