

By Senator Martin

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A bill to be entitled
An act relating to waste management; amending s.
403.703, F.S.; defining the term "auxiliary
container"; conforming a cross-reference; amending s.
403.7033, F.S.; deleting obsolete provisions that
provide legislative findings and require the
Department of Environmental Protection to review and
update a specified report; preempting the regulation
of auxiliary containers to the state; permitting
rules, regulations, or ordinances restricting the use
of glass auxiliary containers within the boundaries of
a public beach; authorizing the Division of Recreation
and Parks to regulate auxiliary containers within
state parks; specifying that certain local ordinances
and restrictions are permitted; amending s. 403.707,
F.S.; conforming cross-references; providing an
effective date.

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

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

403.703 Definitions.—As used in this part, the term:
(2) "Auxiliary container" means a reusable or single-use
bag, cup, bottle, can, or other packaging that meets both of the
following requirements:

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

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

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

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

403.7033 Regulation of auxiliary containers ~~Departmental analysis of particular recyclable materials. The Legislature finds that prudent regulation of recyclable materials is crucial to the ongoing welfare of Florida's ecology and economy. As such, the Department of Environmental Protection shall review and update its 2010 report on retail bags analyzing the need for~~

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~~new or different regulation of auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments. The updated report must include input from state and local government agencies, stakeholders, private businesses, and citizens and must evaluate the efficacy and necessity of both statewide and local regulation of these materials. To ensure consistent and effective implementation, the department shall submit the updated report with conclusions and recommendations to the Legislature no later than December 31, 2021. Until such time that the Legislature adopts the recommendations of the department,~~

(1) Except as provided in s. 500.90, the regulation of auxiliary containers is expressly preempted to the state. A local government, local governmental agency, or state governmental agency may not enact or enforce any rule, regulation, or ordinance regarding the use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers unless explicitly permitted by law.

(2) Rules, regulations, or ordinances restricting the use of glass auxiliary containers within the boundaries of any public beach are explicitly permitted.

(3) The Division of Recreation and Parks of the Department of Environmental Protection may regulate auxiliary containers within state parks consistent with its grant of authority in s. 258.004, wrappings, or disposable plastic bags.

(4) Local ordinances and restrictions authorized under s. 500.90 are permitted.

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

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403.707 Permits.—

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

(j) The Legislature recognizes that recycling, waste reduction, and resource recovery are important aspects of an integrated solid waste management program and as such are necessary to protect the public health and the environment. If necessary to promote such an integrated program, the county may determine, after providing notice and an opportunity for a hearing prior to April 30, 2008, that some or all of the material described in s. 403.703(7)(b) must ~~s. 403.703(6)(b)~~ ~~shall~~ be excluded from the definition of "construction and demolition debris" in s. 403.703(7) ~~s. 403.703(6)~~ within the jurisdiction of such county. The county may make such a determination only if it finds that, prior to June 1, 2007, the county has established an adequate method for the use or recycling of such wood material at an existing or proposed solid waste management facility that is permitted or authorized by the department on June 1, 2007. The county is not required to hold a hearing if the county represents that it previously has held a hearing for such purpose, or if the county represents that it previously has held a public meeting or hearing that authorized

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117 such method for the use or recycling of trash or other
118 nonputrescible waste materials and that such materials include
119 those materials described in s. 403.703(7)(b) ~~s. 403.703(6)(b)~~.
120 The county shall provide written notice of its determination to
121 the department by no later than April 30, 2008; thereafter, the
122 materials described in s. 403.703(7) are ~~s. 403.703(6)~~ shall be
123 excluded from the definition of "construction and demolition
124 debris" in s. 403.703(7) ~~s. 403.703(6)~~ within the jurisdiction
125 of such county. The county may withdraw or revoke its
126 determination at any time by providing written notice to the
127 department.

128 Section 4. This act shall take effect July 1, 2026.