

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.

62

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

64

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. This paragraph applies to the
116 following:

117 1. The expiration of a development order issued by a local
118 government.

119 2. The expiration of a building permit.

120 3. The expiration of a permit issued by the Department of
121 Environmental Protection or a water management district pursuant
122 to part IV of chapter 373.

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

126 Section 7. Paragraph (g) of subsection (2) of section
 127 400.23, Florida Statutes, is amended to read:

128 400.23 Rules; evaluation and deficiencies; licensure
 129 status.—

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

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

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

161 Section 8. Section 403.7034, Florida Statutes, is created
162 to read:

163 403.7034 Single-use plastic straws; preemption.-

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

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

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

171 (c) "Plastic straw" means a disposable straw made
172 predominantly of plastic derived from petroleum or a
173 biologically based polymer, such as corn or other plant sources,
174 which is used to transfer a beverage from a container to the
175 mouth of the person drinking the beverage. The term does not

176 include a straw made from nonplastic materials, including, but
177 not limited to, paper, wood, or bamboo.

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

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

187 Section 9. Paragraph (b) of subsection (1) of section
188 429.41, Florida Statutes, is amended to read:

189 429.41 Rules establishing standards.—

190 (1) It is the intent of the Legislature that rules
191 published and enforced pursuant to this section shall include
192 criteria by which a reasonable and consistent quality of
193 resident care and quality of life may be ensured and the results
194 of such resident care may be demonstrated. Such rules shall also
195 ensure a safe and sanitary environment that is residential and
196 noninstitutional in design or nature. It is further intended
197 that reasonable efforts be made to accommodate the needs and
198 preferences of residents to enhance the quality of life in a
199 facility. Uniform firesafety standards for assisted living
200 facilities shall be established by the State Fire Marshal

201 pursuant to s. 633.206. The agency, in consultation with the
202 department, may adopt rules to administer the requirements of
203 part II of chapter 408. In order to provide safe and sanitary
204 facilities and the highest quality of resident care
205 accommodating the needs and preferences of residents, the
206 department, in consultation with the agency, the Department of
207 Children and Families, and the Department of Health, shall adopt
208 rules, policies, and procedures to administer this part, which
209 must include reasonable and fair minimum standards in relation
210 to:

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

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

223 2. The comprehensive emergency management plan must
224 address the facility's ability to maintain indoor air
225 temperatures in common areas of the building within the

226 temperatures established in the agency rule for assisted living
227 facilities in the event of a facility's loss of primary
228 electrical power. Any facility acting as a receiving provider
229 under s. 408.821(2) may exceed any minimum square footage
230 requirements adopted by agency rule that are associated with the
231 temperature requirements of this subparagraph until such time as
232 the facility is no longer acting as a receiving provider.

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

245 4. The comprehensive emergency management plan must be
246 submitted to the county emergency management agency within 30
247 days after issuance of a license.

248 5. For facilities licensed before June 1, 2020, the
249 provision of emergency power sufficient to maintain indoor air
250 temperatures required under subparagraph 2. must be acquired and

251 maintained at the facility by June 1, 2020. Before June 1, 2020,
252 or until the requirements under subparagraph 2. are met, a
253 facility located in an area covered by a declared state of
254 emergency must either fully and safely evacuate its residents
255 before the arrival of the event or have an alternative power
256 source and 96 hours of fuel stored onsite within 24 hours after
257 the issuance of the state of emergency.

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

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

265 499.002 Purpose, administration, and enforcement of and
266 exemption from this part; preemption.—

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

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

271 526.143 Alternate generated power capacity for motor fuel
272 dispensing facilities; preemption.—

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

276 Section 12. Section 569.008, Florida Statutes, is amended
277 to read:

278 569.008 Responsible retail tobacco products dealers;
279 qualifications; mitigation of disciplinary penalties; diligent
280 management and supervision; presumption; preemption.—As used in
281 this section, the terms "nicotine product" and "nicotine
282 dispensing device" have the same meanings as provided in s.
283 877.112.

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

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

297 (a) Laws covering the sale and delivery of tobacco
298 products, nicotine products, and nicotine dispensing devices.

299 (b) Methods of recognizing and handling customers under 18
300 years of age.

301 (c) Procedures for proper examination of identification
302 cards in order to verify that customers are not under 18 years
303 of age.

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

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

311 (a) The dealer is qualified as a responsible dealer under
312 this section.

313 (b) The dealer provided the training program required
314 under subsection (2) to that employee before the illegal sale
315 occurred.

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

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

321 (4) The division shall develop and make available a model
322 tobacco products, nicotine products, and nicotine dispensing
323 devices training program designed to ensure adherence to this
324 act by dealers and their employees which, if followed, will
325 qualify dealers as responsible dealers.

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

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

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

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