

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1177 Grease Waste Removal and Disposal
SPONSOR(S): Environment, Agriculture & Flooding Subcommittee, Chaney
TIED BILLS: IDEN./SIM. BILLS: SB 1110

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Environment, Agriculture & Flooding Subcommittee	14 Y, 0 N, As CS	Gawin	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee	14 Y, 0 N	White	Pigott
3) State Affairs Committee			

SUMMARY ANALYSIS

Liquid wastes, which come mostly from restaurants and food service businesses, containing fat, oil, and grease (FOG) can become a significant problem for wastewater collection and treatment systems if they are disposed of directly in the sewer. FOGs can coat and accumulate in pipes, causing backups and overflows. As a result, many local governments have implemented pretreatment programs, adopted ordinances regulating sewer use, or required the use of best management practices for owners of FOG-generating facilities to minimize the discharge of FOGs directly into wastewater collection systems. Typically, FOGs are collected separately by the generators or are separated from the liquid waste stream using grease traps or grease interceptors. Once collected, this material must be properly managed.

The bill requires a hauler who removes grease waste from a grease interceptor or grease trap to dispose of the grease waste at a disposal facility. A hauler is prohibited from returning grease waste or graywater to a grease interceptor or trap, or disposing of grease waste in any location other than a disposal facility.

The bill requires a hauler to document the removal and disposal of grease waste with a service manifest. Upon removal of grease waste from an originator's grease trap or interceptor, the bill requires the originator and hauler to sign the service manifest, verifying that the information contained in the service manifest is accurate. The hauler must provide a copy of the signed service manifest to the originator. Upon completion of disposal of the grease waste at a disposal facility, the bill requires the disposal facility operator and the hauler to sign the service manifest, verifying that the information contained in the service manifest is accurate.

The bill requires the hauler to provide the originator with a copy of the completed service manifest showing the signatures of the originator, if applicable, the hauler, and the disposal facility operator within 30 days after the date of the disposal. A copy of the signed completed service manifest must be retained onsite by the originator and the hauler for one year. The bill requires an inspecting entity to verify that an originator has a contract with a hauler for grease waste removal and that grease removal and disposal are documented. The bill establishes penalties for haulers who violate the provisions of the bill.

The bill authorizes local governments to receive copies of service manifests from haulers, receive reports of violations, collect and retain fines for service manifest violations, and impose license actions.

The bill requires the Department of Environmental Protection to periodically inspect the service manifests to ensure compliance with the bill.

The House of Representatives' Proposed Fiscal Year 2022-2023 General Appropriations Act provides funding within DEP for the required periodic inspections. There may be a positive fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Fat, Oil, and Grease

Liquid wastes, which come mostly from restaurants and food service businesses, containing fat, oil, and grease (FOG) can become a significant problem for wastewater collection and treatment systems if they are disposed of directly in the sewer.¹ FOGs can coat and accumulate in pipes, causing backups and overflows.² As a result, many local governments have implemented pretreatment programs, adopted ordinances regulating sewer use, or required the use of best management practices for owners of FOG-generating facilities to minimize the discharge of FOGs directly into wastewater collection systems.³ Typically, FOGs are collected separately by the generators or are separated from the liquid waste stream using grease traps or grease interceptors.

Grease Traps and Interceptors

Once collected, this material must be properly managed. To prevent FOGs from entering the sewer system and clogging pipes, grease interceptors and grease traps are used to separate FOGs from the water entering sewer lines. A grease trap is typically located in a facility under a sink,⁴ where it separates liquid waste from floatable materials that may contain grease, oil, and soap that accumulates on the surface, and heavy solids, such as food particles, paper, and plastics that settle on the bottom of the trap.⁵ Wastewater accumulates between the floatable levels and the solids and is then discharged into the sanitary sewer system.⁶ A grease interceptor, pictured below,⁷ operates similarly to a grease trap, but is located underground outside of the facility.⁸ The Florida Building Code requires grease interceptors to be used to receive drainage from fixtures and equipment with grease-laden waste located in food preparation areas.⁹ If grease traps and interceptors are not regularly maintained by pumping and removal of grease, FOGs can enter into the sewer pipes and create clogs that lead to sewer overflows.¹⁰ Grease traps and interceptors can be subject to inspection by municipalities or counties.¹¹

¹ Department of Environmental Protection, *Recommendations for Regulating Fat, Oil, and Grease Processing and Biofuel Production Facilities in Florida*, (Mar. 15, 2013), p. 2, available at https://floridadep.gov/sites/default/files/Guidance_FOG_Biofuel_15Mar13.pdf (last visited Jan. 13, 2022).

² *Id.*

³ See Miami-Dade County, *Ordinance 18-22*, available at <https://www.miamidade.gov/govaction/legistarfiles/MinMatters/Y2018/180026min.pdf> (last visited Jan. 14, 2022); City of Leesburg, *Grease Management Program*

https://www.leesburgflorida.gov/government/departments/public_works/wastewater/oil_and_grease_program_overview.php (last visited Jan. 14, 2022); Pinellas County, *Fats, Oil, and Grease Best Management Practices Manual*, available at <http://www.pinellascounty.org/utilities/pdf/fogmgtpractice53006.pdf> (last visited Jan. 13, 2022).

⁴ City of Tampa, *Grease Trap*, <https://www.tampa.gov/wastewater/programs/grease-ordinance/education/grease-trap> (last visited Jan. 14, 2022).

⁵ City of Fort Lauderdale, *Pollution Prevention for Restaurants*, <https://gyr.fortlauderdale.gov/greener-government/natural-resources-preservation/clean-water/stormwater-pollution-prevention/pollution-prevention-for-restaurants> (last visited Jan. 13, 2022).

⁶ *Id.*

⁷ Miami-Dade County, *FOG – Fats, Oils and Grease*, <https://www.miamidade.gov/environment/library/flyers/fats-oils-grease-fact-sheet.pdf> (last visited Jan. 14, 2022).

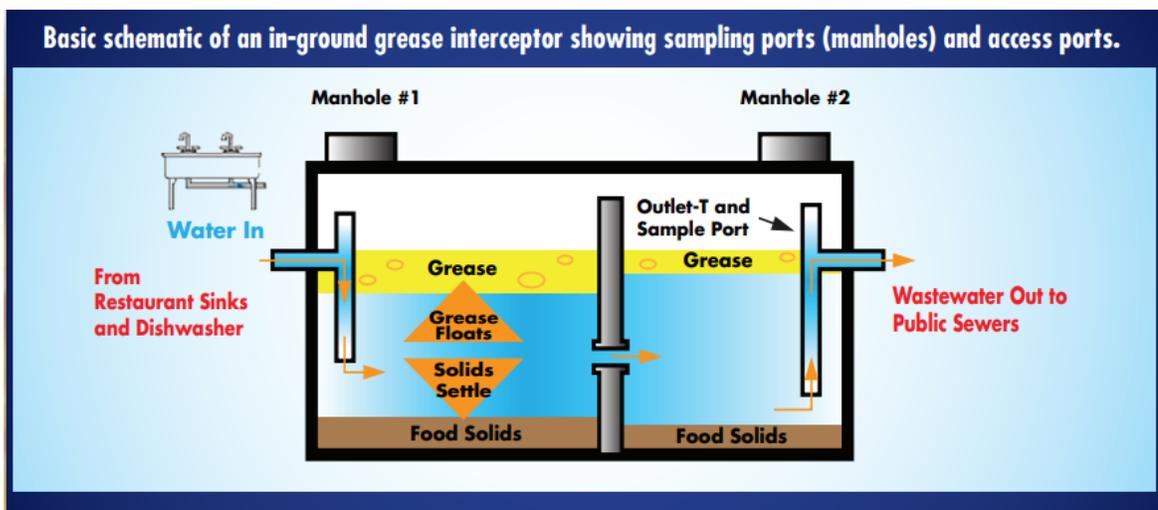
⁸ City of Tampa, *Grease Interceptor*, <https://www.tampa.gov/wastewater/programs/grease-ordinance/education/grease-interceptor> (last visited Jan. 14, 2022).

⁹ Section 1003.3.1, Florida Building Code, Plumbing Section (2014), available at <https://up.codes/viewer/florida/fl-plumbing-code-2014/chapter/10/traps-interceptors-and-separators#10> (last visited Jan. 14, 2022).

¹⁰ Hillsborough County, *Food Service Grease Interceptor and Grease Trap Tips*,

<https://www.hillsboroughcounty.org/library/hillsborough/media-center/documents/solid-waste/trash-and-recycle/faq-grease-management.pdf> (last visited Jan. 14, 2022).

¹¹ Pinellas County, *Commercial Grease Management*, <https://www.pinellascounty.org/utilities/grease.htm> (last visited Jan. 14, 2022).



Waste collected from grease traps and interceptors must be properly managed. The federal Clean Water Act prohibits the release of toxic pollutants, including waste from food establishments, into sewers or waterways without first receiving treatment at an approved facility.¹² Waste collected from grease traps and interceptors may only be applied to land if the waste is treated and approved by the Department of Environmental Protection (DEP).¹³ Typically, such waste is collected by a grease hauler who transports the waste to a disposal facility that is authorized to dispose of the waste.¹⁴ Entities that produce FOGs often contract with a grease hauler to receive these services.

Grease interceptors are often located in onsite sewage treatment and disposal systems. Such interceptors cannot be cleaned or have their contents removed until the service person has obtained an annual permit from the DEP for the county in which the service company is located.¹⁵ This permit authorizes the disposal service to handle liquid waste associated with food operations, domestic waste, or domestic septage. Such authorization applies to all septage produced in the state, and food establishment sludge¹⁶ which is collected for disposal from onsite sewage treatment and disposal systems.

Local Government Regulations

Currently, there are no statewide regulations that govern the operation of grease haulers. However, various local governments have enacted ordinances or established best management practices related to grease hauling and properly handling FOGs in an effort to prevent FOGs from entering sewer lines. For example, Pinellas County has adopted a grease waste ordinance¹⁷ and developed a best practices manual¹⁸ to effectively manage FOGs. The ordinance requires a food establishment to have appropriate grease traps or interceptors and requires such grease traps or interceptors to be pumped out by a permitted grease hauler.¹⁹ After pumping out the grease traps or interceptors, the grease

¹² 33 U.S.C. s. 1317(d), *See United States Environmental Protection Agency, Enforcement Summary of Criminal Prosecutions*, https://cfpub.epa.gov/compliance/criminal_prosecution/index.cfm?action=3&prosecution_summary_id=2127 (last visited Jan. 19, 2022).

¹³ Rule 62-6.010(7)(a), F.A.C.

¹⁴ Rule 62-6.010(5)-(7), F.A.C.

¹⁵ Rule 62-6.010(1), F.A.C.

¹⁶ Rule 62-6.002(27), F.A.C., defines “food establishment sludge” as oils, fats, greases, food scraps, and other grease interceptor contents generated by a food operation or institutional food preparation facility using an onsite sewage treatment and disposal system.

¹⁷ Pinellas County Ordinance, *article VI section 126-600*,

https://library.municode.com/fl/pinellas_county/codes/code_of_ordinances?nodeId=PTIIPICOCO_CH126UT_ARTVIGRWAMA#T OPTITLE (last visited Jan. 18, 2022).

¹⁸ Pinellas County, *Fats, Oil, and Grease Best Management Practices Manual*, available at <http://www.pinellascounty.org/utilities/pdf/fogmgtpractice53006.pdf> (last visited Jan. 18, 2022).

¹⁹ Any person, firm, or business who intends to collect, pump, or haul grease wastes from businesses located within the county must obtain a grease waste hauler permit from the county. Pinellas County Ordinance, *article VI section 126-614*;

https://library.municode.com/fl/pinellas_county/codes/code_of_ordinances?nodeId=PTIIPICOCO_CH126UT_ARTVIGRWAMA#T OPTITLE (last visited Jan. 18, 2022); Pinellas County Ordinance, *article VI section 126-613*,

hauler is required to dispose of the grease waste at a private or public facility designed for treating such waste and to document the disposal in a service record kept by both the hauler and the food establishment for three years.²⁰ Similarly, the city of Fort Lauderdale has established guidelines that outline best management practices for selecting a grease hauler and for handling FOGs in a manner that prevents environmental contamination.²¹ In addition, Sarasota County requires all grease haulers to be licensed with the county and annually renew such license.²² Such licensed grease haulers must use an approved facility for grease disposal and submit quarterly reports detailing pump out activities, including the total number of visits, total volume of material hauled, contact information, locations visited, and disposal destination.²³

Fiscally Constrained Counties and Small Counties

A rural area of opportunity (RAO) is a rural community, or a region composed of rural communities, designated by the Governor that presents a unique economic development opportunity of regional impact or that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster.²⁴ The three designated RAOs are:

- The Northwest RAO, which includes Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington Counties, and the City of Freeport;
- The South Central RAO, which includes DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties, and the Cities of Pahokee, Belle Glade, South Bay, and Immokalee; and
- The North Central RAO, which includes Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union Counties.²⁵

A fiscally constrained county is a county that is entirely within a RAO or a county for which the value of a mill will raise no more than \$5 million in revenue.²⁶

A small county is a county that has a population of 200,000 or less as determined by the most recent population census determination from the Office of Economic and Demographic Research.²⁷

Effect of the Bill

The bill requires a hauler who removes grease waste from a grease interceptor or grease trap to dispose of the grease waste at a disposal facility. A hauler is prohibited from returning grease waste or graywater to a grease interceptor or trap, or disposing of grease waste in any location other than a disposal facility.

The bill requires a hauler to document the removal and disposal of grease waste with a service manifest. The bill defines the term “service manifest” as an electronic or hard copy recordkeeping system used for the collection and disposal of grease waste. The service manifest must contain:

- The contact information of the originator, hauler, and disposal facility;

https://library.municode.com/fl/pinellas_county/codes/code_of_ordinances?nodeId=PTIIPICOCO_CH126UT_ARTVIGRWAMA#T OPTITLE (last visited Jan. 18, 2022).

²⁰ Pinellas County Ordinance, *article VI section 126-604*,

https://library.municode.com/fl/pinellas_county/codes/code_of_ordinances?nodeId=PTIIPICOCO_CH126UT_ARTVIGRWAMA#T OPTITLE (last visited Jan. 18, 2022); Pinellas County Ordinance, *article VI section 126-619*,

https://library.municode.com/fl/pinellas_county/codes/code_of_ordinances?nodeId=PTIIPICOCO_CH126UT_ARTVIGRWAMA#T OPTITLE (last visited Jan. 18, 2022).

²¹ City of Fort Lauderdale, *Pollution Prevention*, <https://gyr.fortlauderdale.gov/greener-government/natural-resources-preservation/clean-water/stormwater-pollution-prevention/pollution-prevention-for-restaurants> (last visited Jan. 18, 2022).

²² Sarasota County, *Fats, Oils, and Grease (FOG) Management Program*, <https://www.scgov.net/government/public-utilities-water/fats-oils-and-grease-fog-ordinance> (last visited Jan. 18, 2022).

²³ *Id.*

²⁴ Section 288.0656(2)(d), F.S.

²⁵ Florida Department of Economic Opportunity, *RAO*, <http://www.floridajobs.org/business-growth-and-partnerships/rural-and-economic-development-initiative/rural-areas-of-opportunity> (last visited Jan. 25, 2022).

²⁶ Section 218.67(1), F.S.

²⁷ Section 339.2818(2), F.S.

- The condition of the originator's grease interceptor or grease trap and verification that the grease interceptor or grease trap was cleaned by the hauler and that the graywater was not returned to the grease interceptor or grease trap;
- The amount of grease waste removed from the originator's grease trap or grease interceptor;
- The amount of grease waste disposed of at the disposal facility; and
- The billing receipt or ticket number provided to the hauler by the disposal facility.

Upon removal of grease waste from an originator's grease trap or interceptor during the originator's hours of operation, the bill requires the originator and hauler to sign the service manifest, verifying that the information contained in the document is accurate. The hauler must provide a copy of the signed service manifest to the originator. If the hauler removes grease waste when the originator is closed, or before or after the originator's hours of operation, the hauler must sign the manifest, verifying that the information is accurate, and leave a signed copy of the service manifest on the premises in a location the originator designates or make the manifest available to the originator electronically.

Upon completion of disposal of the grease waste at a disposal facility, the bill requires the disposal facility operator and the hauler to sign the service manifest, verifying that the information contained in the service manifest is accurate.

The bill requires the hauler to provide the originator and the county and municipality in which the originator is located with a copy of the completed service manifest showing the signatures of the originator, if applicable, the hauler, and the disposal facility operator within 30 days after the date of the disposal. A copy of the signed completed service manifest must be retained onsite by the originator and the hauler for one year.

The bill requires an inspecting entity to verify that an originator has a contract with a hauler for grease waste removal and that grease removal and disposal are documented.

The bill requires DEP to periodically inspect the service manifests retained by a hauler to ensure compliance with the bill's requirements.

Haulers who violate the requirements of the bill are subject to the following penalties:

- An administrative fine not to exceed \$100 for each failure to provide or retain a service manifest;
- An administrative fine not to exceed \$250 for each failure to clean a grease interceptor or grease trap. DEP must authorize the inspecting entity to impose this penalty as part of a grease interceptor or grease trap inspection;
- An administrative fine of at least \$2,500 for an unlawful disposal of grease waste;
- An administrative fine of at least \$5,000 for a second or subsequent unlawful disposal of grease waste.

Additionally, the bill requires that any hauler who unlawfully disposes of grease waste must have his or her license suspended for at least 30 days for a first offense and at least 60 days for a second or subsequent offense.

The bill authorizes local governments to receive copies of service manifests from haulers, receive reports of violations, collect and retain fines for service manifest violations, and impose license actions. The bill authorizes fiscally constrained and small counties to opt out of the requirements of the bill.

The bill specifies that it does not prohibit a local government from adopting or enforcing an ordinance or rule to regulate the removal and disposal of grease waste that is stricter or more extensive than the bill.

The bill requires DEP to adopt rules to implement the bill's requirements.

B. SECTION DIRECTORY:

Section 1. Creates s. 403.742, F.S., related to grease waste removal and disposal.

Section 2. Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The House of Representatives' Proposed Fiscal Year 2022-2023 General Appropriations Act provides \$677,283 in general revenue funds and 8.00 full-time equivalent (FTE) positions to DEP for the periodic inspections and rulemaking requirements in the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have an indeterminate positive fiscal impact on local governments because it authorizes local governments to collect and retain fines from haulers for violations related to disposal of grease.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate negative fiscal impact on haulers who are fined for violating the provisions of the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DEP to adopt rules to implement the bill's requirements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2022, the Environment, Agriculture & Flooding Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Defines the term “grease interceptor and grease trap”;
- Authorizes a grease hauler to make the service manifest available electronically if grease waste removal is done while the originator is closed or before or after the operator’s hours of operation;
- Requires haulers to provide the completed service manifest to the county and municipality in which the originator is located;
- Authorizes local governments to receive copies of the service manifests from haulers, receive reports of violations, collect and retain fines for service manifest violations, and impose license actions; and
- Removes a provision requiring fines collected from haulers to be placed in the Water Quality Assurance Fund.

This analysis is drafted to the committee substitute as approved by the Environment, Agriculture & Flooding Subcommittee.