

By Senator Martin

33-01432B-24

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

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

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

20       403.703 Definitions.—As used in this part, the term:

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

24       (a) Is made of cloth, paper, plastic, cardboard, corrugated  
25       material, aluminum, glass, postconsumer recycled material, or  
26       similar material or substrates, including coated, laminated, or  
27       multilayer substrates.

28       (b) Is designed for transporting, consuming, or protecting  
29       merchandise, food, or beverages from or at a food service or

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30 retail facility.

31 (36)~~(35)~~ "Solid waste" means sludge unregulated under the  
32 federal Clean Water Act or Clean Air Act, sludge from a waste  
33 treatment works, water supply treatment plant, or air pollution  
34 control facility, or garbage, rubbish, refuse, special waste, or  
35 other discarded material, including solid, liquid, semisolid, or  
36 contained gaseous material resulting from domestic, industrial,  
37 commercial, mining, agricultural, or governmental operations.  
38 Recovered materials as defined in subsection (29) ~~(28)~~ and post-  
39 use polymers as defined in subsection (25) ~~(24)~~ are not solid  
40 waste.

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

43 403.7033 Preemption of regulation for auxiliary containers  
44 ~~Departmental analysis of particular recyclable materials.-The~~  
45 regulation of auxiliary containers is expressly preempted to the  
46 state Legislature finds that prudent regulation of recyclable  
47 ~~materials is crucial to the ongoing welfare of Florida's ecology~~  
48 ~~and economy. As such, the Department of Environmental Protection~~  
49 ~~shall review and update its 2010 report on retail bags analyzing~~  
50 ~~the need for new or different regulation of auxiliary~~  
51 ~~containers, wrappings, or disposable plastic bags used by~~  
52 ~~consumers to carry products from retail establishments. The~~  
53 ~~updated report must include input from state and local~~  
54 ~~government agencies, stakeholders, private businesses, and~~  
55 ~~citizens and must evaluate the efficacy and necessity of both~~  
56 ~~statewide and local regulation of these materials. To ensure~~  
57 ~~consistent and effective implementation, the department shall~~  
58 ~~submit the updated report with conclusions and recommendations~~

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59 ~~to the Legislature no later than December 31, 2021. Until such~~  
60 ~~time that the Legislature adopts the recommendations of the~~  
61 ~~department,~~ A local government, local governmental agency, or  
62 state governmental agency may not enact any rule, regulation, or  
63 ordinance regarding use, disposition, sale, prohibition,  
64 restriction, or tax of ~~such~~ auxiliary containers, ~~wrappings,~~ or  
65 ~~disposable plastic bags.~~

66 Section 3. Paragraph (j) of subsection (9) of section  
67 403.707, Florida Statutes, is amended to read:

68 403.707 Permits.—

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

78 (j) The Legislature recognizes that recycling, waste  
79 reduction, and resource recovery are important aspects of an  
80 integrated solid waste management program and as such are  
81 necessary to protect the public health and the environment. If  
82 necessary to promote such an integrated program, the county may  
83 determine, after providing notice and an opportunity for a  
84 hearing prior to April 30, 2008, that some or all of the  
85 material described in s. 403.703(7)(b) ~~s. 403.703(6)(b)~~ shall be  
86 excluded from the definition of "construction and demolition  
87 debris" in s. 403.703(7) ~~s. 403.703(6)~~ within the jurisdiction

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

107 Section 4. This act shall take effect July 1, 2024.