

## CHAPTER 2015-150

### Committee Substitute for House Bill No. 787

An act relating to recycled and recovered materials; amending s. 403.727, F.S.; exempting a person who sells, transfers, or arranges for the transfer of recycled and recovered materials from liability for hazardous substances released or threatened to be released from the receiving facility or site, under certain circumstances; defining the term “recycled and recovered materials”; providing retroactive application under certain circumstances; providing an effective date.

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

Section 1. Subsection (4) of section 403.727, Florida Statutes, is amended, present subsection (8) of that section is redesignated as subsection (9), and a new subsection (8) is added to that section, to read:

403.727 Violations; defenses, penalties, and remedies.—

(4) In addition to any other liability under this chapter, and subject only to the defenses set forth in subsections (5), (6), ~~and (7)~~, and (8):

(a) The owner and operator of a facility;

(b) Any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substance was disposed of;

(c) Any person who, by contract, agreement, or otherwise, arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person or by any other party or entity at any facility owned or operated by another party or entity and containing such hazardous substances; and

(d) Any person who accepts or has accepted any hazardous substances for transport to disposal or treatment facilities or sites selected by such person,

is liable for all costs of removal or remedial action incurred by the department under this section and damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from the release or threatened release of a hazardous substance as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510.

(8) In order to promote the reuse and recycling of recovered materials and to remove potential impediments to recycling, notwithstanding ss. 376.308 and 403.727, a person who sells, transfers, or arranges for the transfer of recycled and recovered materials to a facility owned or operated by another person for the purpose of reclamation, recycling, manufacturing, or reuse of

such materials is relieved from liability for hazardous substances released or threatened to be released from the receiving facility. This relief from liability does not apply if the person fails to exercise reasonable care with respect to the management and handling of the recycled and recovered materials, or if the arrangement for reclamation, recycling, manufacturing, or reuse of such materials was not reasonably expected to be legitimate based on information generally available to the person at the time of the arrangement. For the purpose of this subsection, the term “recycled and recovered materials” means scrap paper; scrap plastic; scrap glass; scrap textiles; scrap rubber, other than whole tires; scrap metal; or spent lead-acid or nickel-cadmium batteries or other spent batteries. The term includes minor amounts of material incident to or adhering to the scrap material as a result of its normal and customary use before becoming scrap. The term does not include hazardous waste. This subsection applies to causes of action accruing on or after July 1, 2015, and applies retroactively to causes of action accruing before July 1, 2015, for which a lawsuit has not been filed.

Section 2. This act shall take effect July 1, 2015.

Approved by the Governor June 11, 2015.

Filed in Office Secretary of State June 11, 2015.