

RESOLUTION NO: R-2012-236

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, URGING THE FLORIDA LEGISLATURE TO REPEAL SECTION 403.7033, FLORIDA STATUTES, TO ALLOW MUNICIPALITIES TO EXERCISE HOMERULE REGARDING THE PASSAGE OF RETAIL BAG REGULATIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 403.7033 of the Florida Statutes adopted by the Legislature in 2008 under The Energy, Climate Change, and Economic Security Act of 2008 (House Bill 7135), required the Florida Department of Environmental Protection (FDEP) to perform an analysis and to submit a report to the Legislature by February 1, 2010 regarding the necessity and efficacy of both statewide and local regulation of bags used by consumers to carry products from retail establishments; and

WHEREAS, pursuant to this statute, no local government, local governmental agency, or state government agency may enact any rule, regulation, or ordinance regarding use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags until the Legislature adopts the recommendations of the department; and

WHEREAS, According to the Environmental Protection Agency, approximately 100 billion plastic bags are used in the United States every year; and

WHEREAS, The FDEP recommends that the Legislature take action to discourage the use of single-use paper and plastic retail bags and encourage the use of reusable retail bags as between 56.8 and 315.15 disposable plastic bags are replaced by a single reusable bag in one year; and

WHEREAS, discarded plastic bags cause unsightly litter, harm land and marine wildlife, interfere with landfill operations, clog flood control systems, and breed mosquitoes; and

WHEREAS, also directly contribute to the environmental damage from plastic bags and other marine debris creating floating garbage patches in the Atlantic, Pacific and Indian Oceans-the largest covering an area almost twice that of the United States; and

WHEREAS, switching from plastic bags to paper bags is not a solution as life cycle analyses show a higher level of environmental harm from manufacturing to disposal of paper compared to plastic bags. Biodegradable or compostable bags is also not a solution as Florida has no solid waste commercial scale composting facility to handle these bags ending up in a landfill just like paper or plastic bags; and

WHEREAS, the retail sector response to environmental issues connected with the use of plastic bags to date has been mixed, but efforts have been made and should be further supported by recognition and the development of educational outreach programs for both retailers and consumers; and

WHEREAS, tourism an important economic generator for the State of Florida and is adversely affected by the unsightly proliferation of litter.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. The Town Council hereby urges The Florida Legislature to repeal Section 403.7033, Florida Statutes to allow municipalities to exercise homerule regarding the passage of retail bag regulations.

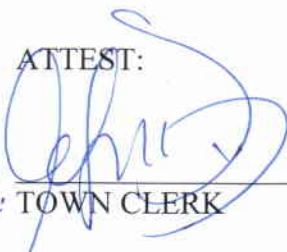
SECTION 2. That the City Clerk is hereby directed to provide a copy of this Resolution to Florida Governor Rick Scott, the State Senate President, the State Speaker of the House, the Broward County Legislative Delegation to the State of Florida Senate and House of Representatives, the United States Senate for the State of Florida and to Broward County's Representatives in the United States House of Representatives.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS 17th DAY OF October, 2012.


MAYOR/COUNCILMEMBER

ATTEST:


TOWN CLERK

APPROVED THIS 17th DAY OF October, 2012.

2011 Florida Statutes

Title XXIX

Chapter 403

View

PUBLIC HEALTH

ENVIRONMENTAL CONTROL

Entire

Chapter

403.7033Departmental 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 undertake an analysis of the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments. The analysis shall include input from state and local government agencies, stakeholders, private businesses, and citizens, and shall evaluate the efficacy and necessity of both statewide and local regulation of these materials. To ensure consistent and effective implementation, the department shall submit a report with conclusions and recommendations to the Legislature no later than February 1, 2010. Until such time that the Legislature adopts the recommendations of the department, no local government, local governmental agency, or state government agency may enact any rule, regulation, or ordinance regarding use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags.

History.—s. 96, ch. 2008-227.

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: David Quigley, AICP, Planning and Zoning Manager/(954) 797-1103

PREPARED BY: Lise Bazinet, Planner II

SUBJECT: Resolution

AFFECTED DISTRICT: Town-wide

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: RETAIL BAG REGULATIONS - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, URGING THE FLORIDA LEGISLATURE TO REPEAL SECTION 403.7033, FLORIDA STATUTES TO ALLOW MUNICIPALITIES TO EXERCISE HOMERULE REGARDING THE PASSAGE OF RETAIL BAG REGULATIONS.

EXECUTIVE SUMMARY: After conducting discussions over several meetings, on September 6, 2012, the Green Energy and Environmental Committee (GEEC) unanimously voted to support this resolution.

KEY POINTS:

- **In 2008, the Florida Legislature adopted Section 403.7333, which required the Florida Department of Environmental Protection (FDEP) to conduct a study of the regulation of plastic and other retail bags. The statute also prohibited local governments from regulating bags until such time as the legislature took further action.**
- **The FDEP study was completed on February 1, 2010 but the legislature has so far failed to act or to reinstate the ability of local governments to take regulatory action.**
- **The FDEP report is available at:** <http://www.dep.state.fl.us/waste/retailbags/>

CONCURRENCES: At the September 6, 2012 Green Energy & Environmental Committee meeting, by Mr. Burgess, seconded by Mr. Webb, to accept the changes seen displaced in the resolution, keeping the part on the title that says, "The resolution of the Town Council, the Town of Davie urging the Florida legislature to" take out the word , "either adopt the recommendations of the Florida Department of Environmental Protection and Retail Bags Report 2.1.2010" or, take out that and say, "repeal section

403.7333 Florida Statutes to allow municipalities to exercise home rule regarding the passage of retail bag regulations.” On the bottom of the second page, change the second section (now Section 3) to “Section 2.” In a voice vote, the motion passed unanimously.

FISCAL IMPACT: No

Has request been budgeted? n/a

If yes, expected cost: \$

Account name and number:

If no, amount needed: \$

What account name and number will funds be appropriated from:

Additional Comments:

RECOMMENDATION(S): Motion to approve resolution

Attachment(s): Resolution; Section 403.7033 of the Florida Statutes