



Office of the Mayor and Town Council

Robert "BJ" Duncan
Council Member

MEMORANDUM

To: Honorable Mayor and Members of the Town Council

From: Council Member Robert "BJ" Duncan, Seat 1

Date: February 19, 2020

Re: Urging Florida Legislature to Propose an Amendment to Florida Statute § 403.7033

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, URGING THE FLORIDA LEGISLATURE TO APPROVE SENATE BILL 182, ALSO KNOWN AS "PREEMPTION OF RECYCLABLE AND POLYSTYRENE MATERIALS," AND ANY COMPANION HOUSE BILLS RELATING TO THE REPEAL OF SECTIONS 403.7033 AND 500.90, FLORIDA STATUTES REGARDING THE USE OR SALE OF SINGLE-USE PLASTIC BAGS AND POLYSTYRENE MATERIALS AND PREEMPTION OF LOCAL LAWS; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

On August 23, 2019, Senate Bill 182 was filed by Senator Linda Stewart, which would delete preemptions of local law relating to the regulation of auxiliary containers, wrappings, or disposable plastic bags and would repeal the preemption of local laws regarding the use or sale of polystyrene products. The Town of Cutler Bay (the "Town"), a coastal community located adjacent to the Biscayne Bay Aquatic Preserves, is diligent in its efforts of environmental preservation, including our ocean, waterways, wetlands and land in between, which is vital to our regional economy and the State of Florida (the "State"). As a leader in the State for promoting environmental stewardship, the Town has ratified various Resolutions and Ordinances (listed below) in order to protect the natural environment of the planet and of this community; conserving natural resources by minimizing its impact on said environment and resources.

- Resolution No. 08-42: Restrict the Use of Plastic Shopping Bags
- Resolution No. 12-42: Disposable Bags and Recyclable Bags
- Ordinance No. 17-04: Polystyrene Regulations for Town Contractors
- Ordinance No. 19-11: Amending Chapter 14 Plastic Straws Prohibition
- Resolution No. 19-69: Urging FL Legislature to Propose Amendment to F.S. 403.7033





The Town Council is mindful of Florida Statute § 403.7033, which provides that “[u]ntil such a time that the Legislature adopted the recommendations of the department, no local government may enact any rule, regulation, or Ordinance regarding use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable bags.”

Furthermore, the Town Council is mindful of Florida Statute § 500.90, which provides that “the regulation of the use or sale of polystyrene products by entities regulated under this chapter is preempted to the department. This preemption does not apply to local ordinances or provisions thereof enacted before January 1, 2016, and does not limit the authority of a local government to restrict the use of polystyrene by individuals on public property, temporary vendors on public property, or entities engaged in a contractual relationship with the local government for the provision of goods or services, unless such use is otherwise preempted by law.”

It is my opinion that all residents and businesses can work cooperatively and play a meaningful role to reduce the proliferation of single-use plastic bags by reducing the reliance on single-use plastic bags through the use of reusable shopping bags. By permitting the Town to enact regulations governing the proliferation of single-use plastic bags, there will be a reduction of single-use plastic bags negative impacts on our environment.

RECOMMENDATION

It is recommended that the Town Council adopt the attached Resolution, urging the Florida Legislature to approve Senate Bill 182 and any companion House Bills relating to the repeal of Sections of Florida Statute § 403.7033 and Florida Statute § 500.90.

