

CHAPTER 376, F.S.

Sections 376.011 – 376.21, F.S. - Pollution of Coastal Waters

Pollution Offenses

Section 376.041, F.S., provides that the discharge of pollutants into or upon any coastal waters, estuaries, tidal flats, beaches, and lands adjoining the seacoast of the state is prohibited.

- No criminal penalties.
- Section 376.16(1), F.S., specifies that a person who violates the above may be punished by a civil penalty of up to \$50,000 per day to be assessed by DEP. Each day equals a separate offense.
- Persons responsible for two or more discharges within a 12-month period commit a noncriminal infraction, which results in additional civil penalties – if not paid can result in 2nd degree misdemeanor

Filing False Reports / Submitting False Information

Section 376.16(12), F.S., makes it a 2nd degree felony for a person to make to cause to be made a false statement which the person does not believe to be true in response to the requirements of ss. 376.011 – 376.21, F.S.

Definitions

"Discharge" includes, but is not limited to, any spilling, leaking, seeping, pouring, emitting, emptying, or dumping which occurs within the territorial limits of the state or outside the territorial limits of the state and affects lands and waters within the territorial limits of the state.

"Pollutants" includes oil of any kind and in any form, gasoline, pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

"Person" means any individual, partner, joint venture, corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity.

CHAPTER 376, F.S

Sections 376.30 – 376.75, F.S. - Pollution of Surface and Ground Waters

Pollution Offenses

Section 376.302, F.S., prohibits the discharge of pollutants or hazardous substances into or upon the surface or ground waters of the state or lands, which discharge violates any DEP standard.

- Any person who *willfully* commits a violation commits a 1st degree misdemeanor punishable as provided in ss. 775.082 and 775.083, F.S., by a fine of not less than \$2,500 or more than \$25,000, or punishable by one year in jail, or by both for each offense.
- Also punishable by civil penalties as provided in s. 403.141, F.S. (\$10,000 per offense)

Filing False Reports / Submitting False Information

Section 376.302, F.S., makes it a 1st degree misdemeanor for a person to knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the chapter, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under this chapter.

- Also punishable by civil penalties as provided in s. 403.141, F.S. (\$10,000 per offense)

Definitions

"Discharge" includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, releasing, or dumping of any pollutant or hazardous substance which occurs and which affects lands and the surface and ground waters of the state not regulated by ss. 376.011-376.21.

"Pollutants" includes any "product" as defined in s. 377.19(11), pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

- Section 377.19(11), F.S., defines the term "product" as any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, waste oil, kerosene, benzene, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

"Person" means any individual, partner, joint venture, or corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity.

CHAPTER 377, F.S

Oil and Gas Regulation

Pollution Offenses

Section 377.371, F.S., prohibits persons drilling for or producing oil, gas, or other petroleum product from polluting land or water; damaging aquatic or marine life, wildlife, birds, or public or private property; or allowing any extraneous matter to enter or damage any mineral or freshwater-bearing formation. The section also requires all spills to be reported to DEP.

- No criminal penalties.
- Section 377.37, F.S., provides that any person who violates any provision of this law or any rule, regulation, or order of the division made under this chapter or who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products referred to in s. 377.242(1), or any lessee, permit holder, or operator of equipment or facilities used in the exploration for, drilling for, or production of oil, gas, or other petroleum products who refuses inspection by the division as provided in this chapter, is subject to the judicial imposition of a civil penalty in an amount of not more than \$10,000 for each offense. Each day during any portion of which such violation occurs is a separate offense.

Filing False Reports / Submitting False Information

Section 377.36, F.S., makes it a 1st degree misdemeanor for any person who, for the purpose of evading this law, or of evading any rule, regulation, or order made hereunder to:

- Intentionally make, or cause to be made, any false entry or statement of fact in any report required to be made by this law, or by any rule, regulation, or order made hereunder;
- Make, or cause to be made, any false entry in any account, record, or memorandum kept by any person in connection with any provision of this law, or of any rule, regulation, or order made hereunder;
- Omit to make, or cause to be omitted, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions pertaining to the interest or activities in the petroleum industry of such person, as may be required by the division under authority given in this law, or by any rule, regulation, or order made hereunder; or
- Remove out of the jurisdiction of the state, or mutilate, alter, or, by any other means, falsify any book, record, or other paper pertaining to the transaction regulated by this law, or by any rule, regulation, or order made hereunder

Section 377.604, F.S., requires every person who produces, imports, exports, refines, transports, transmits, converts, stores, sells, or holds known reserves of any form of energy resources used as fuel to report specified information to the Florida Energy and Climate Commission. A person commits a 1st degree misdemeanor if they willfully fail to submit the information or submit false information.

Definitions

"Oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas after it leaves the reservoir.

"Person" means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind.

CHAPTER 403, F.S

Pollution Control

Pollution Offenses / Filing False Reports / Submitting False Information

Section 403.161(1), F.S., provides that it is a violation for any person:

- (a) To cause pollution, except as otherwise provided in this chapter, so as to harm or injure human health or welfare, animal, plant, or aquatic life or property.
- (b) To fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the department pursuant to its lawful authority.
- (c) To knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under this chapter or by any permit, rule, regulation, or order issued under this chapter.
- (d) For any person who owns or operates a facility to fail to report to the representative of the department, as established by department rule, within one working day of discovery of a release of hazardous substances from the facility if the owner or operator is required to report the release to the United States Environmental Protection Agency.

Whoever violates subsection (1) is liable to the state for any damage caused and for civil penalties as provided in s. 403.141, F.S. (which provide that a person who commits a violation listed above is subject to the judicial imposition of a civil penalty for each offense in an amount of not more than \$10,000 per offense. Each day during any portion of which such violation occurs constitutes a separate offense.)

Any person who *willfully* commits a violation specified in paragraph (1)(a) is guilty of a 3rd degree felony punishable by a fine of not more than \$50,000 or by imprisonment for 5 years, or by both, for each offense. Each day during any portion of which such violation occurs constitutes a separate offense.

Any person who commits a violation specified in paragraph (1)(a) due to *reckless indifference or gross careless disregard* is guilty of a 2nd degree misdemeanor punishable by a fine of not more than \$5,000 or by 60 days in jail, or by both, for each offense.

Any person who willfully commits a violation specified in paragraph (1)(b) or paragraph (1)(c) is guilty of a 1st degree misdemeanor punishable by a fine of not more than \$10,000 or by 6 months in jail, or by both for each offense.

Section 403.413, F.S. – Florida’s Litter Law

- Subsection (4) provides that unless otherwise authorized by law or permit, it is unlawful for any person to dump litter in any manner or amount:
 - (a) In or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided therefor. When any litter is thrown or discarded from a motor vehicle, the operator or owner of the motor vehicle, or both, shall be deemed in violation of this section;
 - (b) In or on any freshwater lake, river, canal, or stream or tidal or coastal water of the state, including canals. When any litter is thrown or discarded from a boat, the operator or owner of the boat, or both, shall be deemed in violation of this section; or
 - (c) In or on any private property, unless prior consent of the owner has been given and unless the dumping of such litter by such person will not cause a public nuisance or otherwise be in violation of any other state or local law, rule, or regulation.

- Subsection (5) provides that unless otherwise authorized by law or permit, it is unlawful for any person to dump raw human waste from any train, aircraft, motor vehicle, or vessel upon the public or private lands or waters of the state. Any person who violates the provisions of subsection (5) is guilty of a 2nd degree misdemeanor, provided, however, that any person who dumps more than 500 pounds or more than 100 cubic feet of raw human waste, or who dumps any quantity of such waste for commercial purposes, is guilty of a 3rd degree felony, punishable as provided in paragraph (6)(c).

- Subsection (6) provides the following penalties:
 - (a) Any person who dumps litter in violation of subsection (4) in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes is guilty of a noncriminal infraction, punishable by a civil penalty of \$100. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.
 - (b) Any person who dumps litter in violation of subsection (4) in an amount exceeding 15 pounds in weight or 27 cubic feet in volume, but not exceeding 500 pounds in weight or 100 cubic feet in volume and not for commercial purposes is guilty of a misdemeanor of the first degree. In addition, the court shall require the violator to pick up litter or perform other community service commensurate with the offense committed. Further, if the violation involves the use of a motor vehicle, upon a finding of guilt, whether or not adjudication is withheld or whether imposition of sentence is withheld, deferred, or suspended, the court shall forward a record of the finding to the Department of Highway Safety and Motor Vehicles, which shall record a penalty of three points on the violator's driver's license pursuant to the point system.
 - (c) Any person who dumps litter in violation of subsection (4) in an amount exceeding 500 pounds in weight or 100 cubic feet in volume or in any quantity for commercial purposes, or dumps litter which is a hazardous waste is guilty of a felony of the third degree. In addition, the court may order the violator to:
 1. Remove or render harmless the litter that he or she dumped;
 2. Repair or restore property damaged by, or pay damages for any damage arising out of, his or her dumping litter; or
 3. Perform public service relating to the removal of litter dumped in violation of this section or to the restoration of an area polluted by litter dumped in violation of this section.

Definitions

"Pollution" is the presence in the outdoor atmosphere or waters of the state of any substances, contaminants, noise, or manmade or human-induced impairment of air or waters or alteration of the chemical, physical, biological, or radiological integrity of air or water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation unless authorized by applicable law.

"Person" means the state or any agency or institution thereof, the United States or any agency or institution thereof, or any municipality, political subdivision, public or private corporation, individual, partnership, association, or other entity and includes any officer or governing or managing body of the state, the United States, any agency, any municipality, political subdivision, or public or private corporation.

For purposes of the litter law, "person" means any individual, firm, sole proprietorship, partnership, corporation, or unincorporated association.

"Litter" means any garbage; rubbish; trash; refuse; can; bottle; box; container; paper; tobacco product; tire; appliance; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part; vessel; aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

"Person" means any individual, firm, sole proprietorship, partnership, corporation, or unincorporated association.

"Vessel" means a boat, barge, or airboat or any other vehicle used for transportation on water.

PENALTIES

Sections 775.082 and 775.083, F.S., provide the following:

- 1st degree felonies are punishable by up to 30 years imprisonment and a maximum \$10,000 fine.
- 2nd degree felonies are punishable by up to 15 years imprisonment and a maximum \$10,000 fine.
- 3rd degree felonies are punishable by up to 5 years imprisonment and a maximum \$5,000 fine.
- 1st degree misdemeanors are punishable by up to one year imprisonment and a maximum \$1,000 fine.
- 2nd degree misdemeanors are punishable by no more than 60 days imprisonment and a maximum \$500 fine.