

BILL ANALYSIS

Senate Research Center
80R12600 ATP-D

H.B. 1871
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Business & Commerce
5/4/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, there are no laws regulating the resale of plastic bulk merchandise containers to a person or business that recycles, shreds, or destroys these types of containers. Because of the lack of regulation, such containers are left open to theft, costing companies that use them in the transport of their products large amounts of money each year.

H.B. 1871 requires a person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers to obtain from the seller proof of ownership for the containers and a record of identifying information of the seller and provides that a person who violates this provision is liable to the state for a civil penalty of \$10,000 for each violation. Furthermore, this bill prohibits a person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers from using an artifice to avoid application of the provisions of this bill and provides that a person who violates this provision is liable to the state for a civil penalty of \$30,000 for each violation. This bill defines the terms "plastic bulk merchandise container" and "proof of ownership." Finally, this bill authorizes the attorney general or appropriate prosecuting attorney to sue to collect a civil penalty under the provisions of this bill.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 35, Business & Commerce Code, by adding Section 35.63, as follows:

Sec. 35.63. SALE OF PLASTIC BULK MERCHANDISE CONTAINER. (a) Defines "plastic bulk merchandise container" and "proof of ownership."

(b) Requires a person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers, before purchasing five or more plastic bulk merchandise containers from the same person, to obtain from that person proof of ownership for the containers and a record containing certain information, and to verify the identity of the individual selling the containers or representing the seller from a driver's license or other government-issued identification card that includes the individual's photograph, and record the verification.

(c) Requires a person to retain a record obtained or made under this section until the first anniversary of the later of the date the containers are purchased or delivered.

(d) Provides that a person who violates Subsection (b) or (c) is liable to this state for a civil penalty of \$10,000 for each violation.

(e) Prohibits a person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers from using an artifice to avoid the application of this section, including documenting purchases from the same person on the same day as multiple transactions. Provides that a person who

violates this subsection is liable to this state for a civil penalty of \$30,000 for each violation.

(f) Authorizes the attorney general or appropriate prosecuting attorney to sue to collect a civil penalty under this section.

SECTION 2. Effective date: September 1, 2007.