

BILL ANALYSIS

H.B. 2128
By: Giddings
Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

H.B. 1871, enacted by the 80th Legislature, Regular Session, 2007, 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 identifying the seller's information. H.B. 1871 made a person who violates this provision liable to the state for a civil penalty; however, many business and law enforcement authorities have expressed concern about the lack of prosecuting authority to pursue these crimes.

H.B. 2128 grants the attorney general or appropriate prosecuting attorney the authority to investigate an alleged violation of requirements imposed on a person in the business of recycling, shredding, or destroying plastic bulk merchandise containers and to recover reasonable expenses.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2128 amends Section 35.63, Business & Commerce Code, as added by Chapter 307, Acts of the 80th Legislature, Regular Session, 2007, and Section 204.004, Business & Commerce Code, as effective September 1, 2009, to authorize the attorney general or appropriate prosecuting attorney, in addition to suing to collect a civil penalty, to investigate an alleged violation of requirements imposed on a person in the business of recycling, shredding, or destroying plastic bulk merchandise containers to obtain, verify, and maintain a record of having obtained and verified a seller's proof of ownership and identity before making certain purchases. The bill authorizes the attorney general or appropriate prosecuting attorney to recover reasonable expenses, including court costs, attorney's fees, investigative costs, witness fees, and deposition expenses, incurred in recovering a civil penalty.

H.B. 2128 establishes that its provisions take effect either as amendments to Section 35.63, Business & Commerce Code, as added by Chapter 307, Acts of the 80th Legislature, Regular Session, 2007, or as amendments to Chapter 204, Business & Commerce Code, as added by the general code update bill, contingent on whether that Act of the 81st Legislature, Regular Session 2009, relating to nonsubstantive additions to and corrections in existing codes, is enacted.

EFFECTIVE DATE

September 1, 2009.