

AN ACT

relating to regulations regarding the sale of plastic bulk merchandise containers; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 35.63, Business & Commerce Code, as added by Chapter 307 (H.B. 1871), Acts of the 80th Legislature, Regular Session, 2007, is amended by amending Subsections (b), (c), (d), and (e) and adding Subsections (g) and (h) to read as follows:

(b) A person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers, before purchasing 10 [~~five~~] or more plastic bulk merchandise containers from an individual at one time, [~~the same person~~], shall:

(1) obtain from an individual [~~that person~~]:

(A) proof of ownership for the containers; and

(B) a record that contains:

(i) the name, address, and telephone number of the person or the person's authorized representative;

(ii) the name and address of the buyer of the containers or any consignee of the containers;

(iii) a description of the containers, including the number of the containers to be sold; and

(iv) the date of the transaction; and

(2) verify the identity of the individual selling the containers or representing the seller from a driver's license or

1 other government-issued identification card that includes the  
2 individual's photograph, and record the verification.

3 (c) A person who is in the business of recycling, shredding,  
4 or destroying plastic bulk merchandise containers shall retain a  
5 record obtained or made under this section until the first  
6 anniversary of the later of the date the containers are purchased or  
7 delivered.

8 (d) A person who is in the business of recycling, shredding,  
9 or destroying plastic bulk merchandise containers who violates  
10 Subsection (b) or (c) is liable to this state for a civil penalty of  
11 \$10,000 for each violation.

12 (e) A person who is in the business of recycling, shredding,  
13 or destroying plastic bulk merchandise containers may not use an  
14 artifice to avoid the application of this section, including  
15 documenting purchases from the same person on the same day as  
16 multiple transactions. A person who is in the business of  
17 recycling, shredding, or destroying plastic bulk merchandise  
18 containers who violates this subsection is liable to this state for  
19 a civil penalty of \$30,000 for each violation.

20 (g) A person who is in the business of recycling, shredding,  
21 or destroying plastic bulk merchandise containers who violates this  
22 section commits an offense. Except as provided by Subsection (h),  
23 an offense under this subsection is a Class C misdemeanor  
24 punishable by:

25 (1) a fine not to exceed \$350, if the total purchase  
26 price of the plastic bulk merchandise containers to which the  
27 offense relates is less than \$1,000; or

1           (2) a fine not to exceed \$700, if the total purchase  
2 price of the plastic bulk merchandise containers to which the  
3 offense relates is \$1,000 or more.

4           (h) If it is shown on the trial of an offense under this  
5 section that the defendant has been previously convicted of an  
6 offense under this section based on the same type of violation, the  
7 offense is punishable by a fine not to exceed twice the maximum  
8 amount of the fine prescribed for a first offense under this  
9 section.

10           SECTION 2. Chapter 204, Business & Commerce Code, as  
11 effective September 1, 2009, is amended by adding Section 204.005  
12 to read as follows:

13           Sec. 204.005. CRIMINAL PENALTY. (a) A person who is in the  
14 business of recycling, shredding, or destroying plastic bulk  
15 merchandise containers who violates this chapter commits an  
16 offense.

17           (b) Except as provided by Subsection (c), an offense under  
18 this section is a Class C misdemeanor punishable by:

19                   (1) a fine not to exceed \$350, if the total purchase  
20 price of the plastic bulk merchandise containers to which the  
21 offense relates is less than \$1,000; or

22                   (2) a fine not to exceed \$700, if the total purchase  
23 price of the plastic bulk merchandise containers to which the  
24 offense relates is \$1,000 or more.

25           (c) If it is shown on the trial of an offense under this  
26 section that the defendant has been previously convicted of an  
27 offense under this section based on the same type of violation, the

1 offense is punishable by a fine not to exceed twice the maximum  
2 amount of the fine prescribed for a first offense under this  
3 section.

4 SECTION 3. (a) Section 1 of this Act takes effect only if  
5 the Act of the 81st Legislature, Regular Session, 2009, relating to  
6 nonsubstantive additions to and corrections in existing codes does  
7 not become law.

8 (b) Section 2 of this Act takes effect only if the Act of the  
9 81st Legislature, Regular Session, 2009, relating to  
10 nonsubstantive additions to and corrections in existing codes  
11 becomes law.

12 SECTION 4. This Act takes effect September 1, 2009.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2127 was passed by the House on May 1, 2009, by the following vote: Yeas 142, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2127 on May 29, 2009, by the following vote: Yeas 142, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2127 was passed by the Senate, with amendments, on May 27, 2009, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor