

1-1 By: Giddings (Senate Sponsor - West) H.B. No. 2127  
1-2 (In the Senate - Received from the House May 4, 2009;  
1-3 May 6, 2009, read first time and referred to Committee on Business  
1-4 and Commerce; May 21, 2009, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
1-6 May 21, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2127 By: Watson

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to regulations regarding the sale of plastic bulk  
1-11 merchandise containers; providing a criminal penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 35.63, Business & Commerce Code, as  
1-14 added by Chapter 307 (H.B. 1871), Acts of the 80th Legislature,  
1-15 Regular Session, 2007, is amended by amending Subsections (b), (c),  
1-16 (d), and (e) and adding Subsections (g) and (h) to read as follows:

1-17 (b) A person who is in the business of recycling, shredding,  
1-18 or destroying plastic bulk merchandise containers, before  
1-19 purchasing 10 ~~[five]~~ or more plastic bulk merchandise containers  
1-20 from an individual at one time, ~~[the same person]~~ shall:

1-21 (1) obtain from an individual ~~[that person]~~:

1-22 (A) proof of ownership for the containers; and

1-23 (B) a record that contains:

1-24 (i) the name, address, and telephone number  
1-25 of the person or the person's authorized representative;

1-26 (ii) the name and address of the buyer of  
1-27 the containers or any consignee of the containers;

1-28 (iii) a description of the containers,  
1-29 including the number of the containers to be sold; and

1-30 (iv) the date of the transaction; and

1-31 (2) verify the identity of the individual selling the  
1-32 containers or representing the seller from a driver's license or  
1-33 other government-issued identification card that includes the  
1-34 individual's photograph, and record the verification.

1-35 (c) A person who is in the business of recycling, shredding,  
1-36 or destroying plastic bulk merchandise containers shall retain a  
1-37 record obtained or made under this section until the first  
1-38 anniversary of the later of the date the containers are purchased or  
1-39 delivered.

1-40 (d) A person who is in the business of recycling, shredding,  
1-41 or destroying plastic bulk merchandise containers who violates  
1-42 Subsection (b) or (c) is liable to this state for a civil penalty of  
1-43 \$10,000 for each violation.

1-44 (e) A person who is in the business of recycling, shredding,  
1-45 or destroying plastic bulk merchandise containers may not use an  
1-46 artifice to avoid the application of this section, including  
1-47 documenting purchases from the same person on the same day as  
1-48 multiple transactions. A person who is in the business of  
1-49 recycling, shredding, or destroying plastic bulk merchandise  
1-50 containers who violates this subsection is liable to this state for  
1-51 a civil penalty of \$30,000 for each violation.

1-52 (g) A person who is in the business of recycling, shredding,  
1-53 or destroying plastic bulk merchandise containers who violates this  
1-54 section commits an offense. Except as provided by Subsection (h),  
1-55 an offense under this subsection is a Class C misdemeanor  
1-56 punishable by:

1-57 (1) a fine not to exceed \$350, if the total purchase  
1-58 price of the plastic bulk merchandise containers to which the  
1-59 offense relates is less than \$1,000; or

1-60 (2) a fine not to exceed \$700, if the total purchase  
1-61 price of the plastic bulk merchandise containers to which the  
1-62 offense relates is \$1,000 or more.

1-63 (h) If it is shown on the trial of an offense under this

2-1 section that the defendant has been previously convicted of an  
2-2 offense under this section based on the same type of violation, the  
2-3 offense is punishable by a fine not to exceed twice the maximum  
2-4 amount of the fine prescribed for a first offense under this  
2-5 section.

2-6 SECTION 2. Chapter 204, Business & Commerce Code, as  
2-7 effective September 1, 2009, is amended by adding Section 204.005  
2-8 to read as follows:

2-9 Sec. 204.005. CRIMINAL PENALTY. (a) A person who is in the  
2-10 business of recycling, shredding, or destroying plastic bulk  
2-11 merchandise containers who violates this chapter commits an  
2-12 offense.

2-13 (b) Except as provided by Subsection (c), an offense under  
2-14 this section is a Class C misdemeanor punishable by:

2-15 (1) a fine not to exceed \$350, if the total purchase  
2-16 price of the plastic bulk merchandise containers to which the  
2-17 offense relates is less than \$1,000; or

2-18 (2) a fine not to exceed \$700, if the total purchase  
2-19 price of the plastic bulk merchandise containers to which the  
2-20 offense relates is \$1,000 or more.

2-21 (c) If it is shown on the trial of an offense under this  
2-22 section that the defendant has been previously convicted of an  
2-23 offense under this section based on the same type of violation, the  
2-24 offense is punishable by a fine not to exceed twice the maximum  
2-25 amount of the fine prescribed for a first offense under this  
2-26 section.

2-27 SECTION 3. (a) Section 1 of this Act takes effect only if  
2-28 the Act of the 81st Legislature, Regular Session, 2009, relating to  
2-29 nonsubstantive additions to and corrections in existing codes does  
2-30 not become law.

2-31 (b) Section 2 of this Act takes effect only if the Act of the  
2-32 81st Legislature, Regular Session, 2009, relating to  
2-33 nonsubstantive additions to and corrections in existing codes  
2-34 becomes law.

2-35 SECTION 4. This Act takes effect September 1, 2009.

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