

SENATE AMENDMENTS

2nd Printing

By: Giddings

H.B. No. 2127

A BILL TO BE ENTITLED

1 AN ACT
2 relating to regulations regarding the sale of plastic bulk
3 merchandise containers; providing a criminal penalty.

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

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

9 (g) A person who violates this section commits an offense.
10 Except as provided by Subsection (h), an offense under this
11 subsection is a Class C misdemeanor punishable by:

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

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

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

24 SECTION 2. Chapter 204, Business & Commerce Code, as

1 effective September 1, 2009, is amended by adding Section 204.005
2 to read as follows:

3 Sec. 204.005. CRIMINAL PENALTY. (a) A person who violates
4 this chapter commits an offense.

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

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

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

13 (c) If it is shown on the trial of an offense under this
14 section that the defendant has been previously convicted of an
15 offense under this section based on the same type of violation, the
16 offense is punishable by a fine not to exceed twice the maximum
17 amount of the fine prescribed for a first offense under this
18 section.

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

23 (b) Section 2 of this Act takes effect only if the Act of the
24 81st Legislature, Regular Session, 2009, relating to
25 nonsubstantive additions to and corrections in existing codes
26 becomes law.

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

ADOPTED

MAY 27 2009

Atty Gen
Secretary of the Senate

By: Giddings/West

H.B. No. 2127

Substitute the following for ___B. No. _____:

By: Thurkinton

C.S. ___B. No. _____

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

13 (A) proof of ownership for the containers; and

14 (B) a record that contains:

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

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

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

21 (iv) the date of the transaction; and

22 (2) verify the identity of the individual selling the
23 containers or representing the seller from a driver's license or
24

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.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2127 by Giddings (Relating to regulations regarding the sale of plastic bulk merchandise containers; providing a criminal penalty.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Business and Commerce Code and add a criminal penalty for violations of rules for persons who are in the business of recycling, shredding, or destroying plastic bulk containers. The bill also makes violations of these sections a Class C misdemeanor and sets fines based on the price paid for plastic bulk merchandise containers. The Office of the Attorney General anticipates that any additional legal work resulting from implementation of the bill could be absorbed within existing state resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, SZ, JRO, JM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2127 by Giddings (Relating to regulations regarding the sale of plastic bulk merchandise containers; providing a criminal penalty.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Business and Commerce Code and add a criminal penalty for violations of rules for persons who are in the business of recycling, shredding, or destroying plastic bulk containers. The bill also makes violations of these sections a Class C misdemeanor and sets fines based on the price paid for plastic bulk merchandise containers. The Office of the Attorney General anticipates that any additional legal work resulting from implementation of the bill could be absorbed within existing state resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, JRO, JM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 18, 2009

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2127 by Giddings (Relating to regulations regarding the sale of plastic bulk merchandise containers; providing a criminal penalty.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Business and Commerce Code and add a criminal penalty for violations of rules for persons who are in the business of recycling, shredding, or destroying plastic bulk containers. The bill also makes violations of these sections a Class C misdemeanor and sets fines based on the price paid for plastic bulk merchandise containers. The Office of the Attorney General anticipates that any additional legal work resulting from implementation of the bill could be absorbed within existing state resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, JRO, JM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 16, 2009

TO: Honorable Joe Deshotel, Chair, House Committee on Business & Industry

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2127 by Giddings (Relating to regulations regarding the sale of plastic bulk merchandise containers; providing a criminal penalty.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Business and Commerce Code and add a criminal penalty for violations of rules for persons who are in the business of recycling, shredding, or destroying plastic bulk containers. The bill also makes violations of these sections a Class C misdemeanor and sets fines based on the price paid for plastic bulk merchandise containers. The Office of the Attorney General anticipates that any additional legal work resulting from implementation of the bill could be absorbed within existing state resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, JRO, JM