

House Bill 2127
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 adding Subsections (g) and (h) to read as follows:

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

(c) A person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers shall retain a record obtained or made under this section until the first anniversary of the later of the

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date the containers are purchased or delivered.

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

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

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

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

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

(h) If it is shown on the trial of an offense under this section that the defendant has been previously convicted of an offense under this section based on the same type

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

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

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

(h) If it is shown on the trial of an offense under this section that the defendant has been previously convicted of an offense under this section based on the same type

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Same as House version.

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