

BILL ANALYSIS

Senate Research Center

S.B. 875
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Plastic bulk merchandise containers used primarily by soft drink, milk, and bread manufacturers and distributors have become a target for thieves because these containers can be resold for cash to individuals who are in the business of recycling, shredding, or destroying the containers. Incidents of theft of these containers are costly to companies that use them to transport their products.

Currently, a person in the business of recycling, shredding, or destroying plastic bulk merchandise containers is required to identify the seller before purchasing five or more containers. S.B. 875 prohibits the purchaser from paying the seller in cash. The purchaser will be required to record the payment method for any transaction involving one or more plastic bulk merchandise containers, unless the seller represents a corporation, business, or governmental entity. A record of purchase containing the name, address, and identifying number from the seller's identification document or a legible scan or photocopy of that document must be made available to the attorney general or prosecuting attorney upon request.

S.B. 875 will provide a civil penalty for each violation deferring to the court for the penalty amount not to exceed \$5,000.

S.B. 875 amends current law relating to the purchase of plastic bulk merchandise containers by certain businesses, and provides a civil penalty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 204.002, Business & Commerce Code, by amending Subsections (a) and (c) and adding Subsections (d), (e), and (f), as follows:

(a) Requires a person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers, before purchasing five or more plastic bulk merchandise containers from the same person, to obtain certain information and to verify in a manner determined by the purchaser that the individual is acting on behalf of a corporation, business, government, or governmental subdivision or agency. Makes nonsubstantive changes.

(c) Provides that a person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers and who purchases a plastic bulk merchandise container from an individual, unless the person verifies in a manner determined by the purchaser that the individual is acting on behalf of a corporation, business, government, or governmental subdivision or agency:

(1) is prohibited from paying for the purchase of any plastic bulk merchandise container with cash; and

(2) is required, for each transaction in which the person purchases one or more plastic bulk merchandise containers, to record the method of payment used to purchase the containers.

(d) Requires that a record made under Subsection (c)(2) be attached to a record made or obtained under Subsection (a) if a record is required under that subsection.

(e) Creates this subsection from existing text. Makes no further change to this subsection.

(f) Provides that a person who violates Subsection (c) is liable to this state for a civil penalty in an amount not to exceed \$5,000 for each violation. Provides that each cash transaction made in violation of Subsection (c)(1) is a separate violation for purposes of imposing a penalty under this subsection. Requires the court, in determining the amount of the civil penalty imposed under this subsection, to consider the amount necessary to deter future violations.

SECTION 2. Amends Section 204.004(a), Business & Commerce Code, to authorize the attorney general or appropriate prosecuting attorney to take certain actions, including to inspect a record retained by a person under Section 204.002 (Requirements Applicable to Sale of Plastic Bulk Merchandise Container). Makes nonsubstantive changes.

SECTION 3. Effective date: September 1, 2013.