

## **BILL ANALYSIS**

Senate Research Center  
81R35350 E

C.S.H.B. 2127  
By: Giddings (West)  
Business & Commerce  
5/20/2009  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2007, the 80th Texas Legislature, Regular Session, enacted H.B. 1871 to address the fact that there was no law regulating the resale of plastic bulk merchandise containers to a person or business that recycles, shreds, or destroys these types of containers. H.B. 1871 also required a person in the business of recycling these containers to obtain proof of ownership from an individual who attempts to recycle five or more of the containers. The theft of plastic bulk merchandise continues to rise and is very costly.

C.S.H.B. 2127 amends current law relating to regulations regarding the sale of plastic bulk merchandise containers and provides penalties.

### **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 35.63, Business & Commerce Code, as added by Chapter 307 (H.B. 1871), Acts of the 80th Legislature, Regular Session, 2007, by amending Subsections (b)-(e) and adding Subsections (g) and (h), as follows:

(b) Requires a person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers, before purchasing 10 or more, rather than five or more, plastic bulk merchandise containers from an individual at one time, rather than from the same person, to obtain from an individual proof of ownership for the containers and a record that contains certain information and to verify the identity of the individual selling the containers or representing the seller from a certain document. Makes a conforming change.

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

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

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

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

(b) Provides that except as provided by Subsection (c), an offense under this section is a Class C misdemeanor punishable by 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 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) Provides that 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.

SECTION 3. (a) Provides that 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) Provides that 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. Effective date: September 1, 2009.