



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 721 and 722 (as reported without amendment)
Sponsor: Senator Rick Jones (S.B. 721)
Senator Jim Marleau (S.B. 722)
Committee: Regulatory Reform

CONTENT

Senate Bill 721 would create the "Plastic Bulk Merchandise Container Act" to do the following:

- Specify requirements for a sale of 10 or more plastic bulk merchandise containers, including that the purchase be by check or a similar financial instrument and that the seller be at least 16 years old.
- Require a dealer to keep a record of each purchase of 10 or more plastic bulk merchandise containers in a single transaction.
- Require a dealer to tag and hold a plastic bulk merchandise container under certain circumstances.
- Prescribe a misdemeanor penalty of up to 93 days' imprisonment and/or a maximum fine of \$500 for a dealer who knowingly violated the purchase-record or tag-and-hold requirement.
- Provide that a person who knowing purchased or sold 10 or more stolen plastic bulk merchandise containers would be guilty of a felony punishable imprisonment for up to five years and/or a maximum fine of \$5,000 (or \$10,000 for a repeat offense).
- Provide that a person whose action violated the proposed Act would be responsible for a State civil infraction and could be fined up to \$5,000, if he or she knew or had reason to know that the action violated the Act.
- Allow a person to bring an action for monetary damages suffered from a violation of the Act by a seller or dealer; allow the court to award costs; and require the court to award treble damages for the value of stolen containers if the violation involved the theft of 10 or more plastic bulk merchandise containers.

The bill would define "dealer" as a person, including a person who operates a business as a plastics recycler, processor, or shredder or reseller, who purchases plastic bulk merchandise containers from any seller other than the manufacturer of the containers or an authorized dealer or distributor of those containers. "Seller" would mean a person who sells, barter, or trades a plastic bulk merchandise container to a dealer.

"Plastic bulk merchandise container" would mean a plastic pallet, crate, container, or shell used by a producer, distributor, or retailer for the bulk transportation or storage of goods for sale at retail, including food or beverages.

The bill would take effect 180 days after its enactment.

Senate Bill 722 would amend sentencing guidelines in the Code of Criminal Procedure to include the felony proposed by Senate Bill 721 as a Class E felony against the public order, with a statutory maximum sentence of five years' imprisonment.

The bill is tie-barred to Senate Bill 721.

MCL 777.14h (S.B. 722)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of the proposed offenses. An offender convicted of the Class E felony offense under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months. Local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,500, as well as the cost of incarceration in a State facility at an average annual cost of \$34,000. Additional penal fine revenue and State civil infraction fine revenue would benefit public libraries.

Date Completed: 12-9-11

Fiscal Analyst: Steve Angelotti

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.