

SENATE BILL No. 721

October 4, 2011, Introduced by Senators JONES, MARLEAU, BIEDA, EMMONS and SCHUITMAKER
and referred to the Committee on Regulatory Reform.

A bill to regulate the purchase and sale of certain plastic bulk merchandise containers; to require disclosures and record keeping by dealers of plastic bulk merchandise containers; and to provide for penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "plastic bulk merchandise container act".

3 Sec. 3. As used in this act:

4 (a) "Dealer" means a person, including, but not limited to, a
5 person that operates a business as a plastics recycler, processor,
6 or shredder or reseller, that purchases plastic bulk merchandise
7 containers from any seller other than the manufacturer of the bulk
8 merchandise containers or an authorized dealer or distributor of

1 those containers.

2 (b) "Documentation" means a signed statement that indicates
3 where a person obtained a plastic bulk merchandise container
4 offered for sale, indicates that a person is authorized to sell a
5 plastic bulk merchandise container, or provides other evidence that
6 reasonably demonstrates ownership of a plastic bulk merchandise
7 container offered for sale and the source of the container.

8 (c) "Industrial or commercial account" means a person that
9 sells plastic or plastic articles to a dealer from a fixed location
10 pursuant to a written agreement with that dealer.

11 (d) "Person" means an individual, partnership, corporation,
12 limited liability company, or other legal entity.

13 (e) "Plastic bulk merchandise container" means a plastic
14 pallet, crate, container, or shell used by a producer, distributor,
15 or retailer for the bulk transportation or storage of goods for
16 sale at retail, including, but not limited to, food or beverages.

17 (f) "Record" means a paper, electronic, or other generally
18 accepted method of storing information in a retrievable form.

19 (g) "Seller" means a person that sells, barter, or trades a
20 plastic bulk merchandise container to a dealer.

21 Sec. 5. (1) A dealer that purchases 10 or more plastic bulk
22 merchandise containers from a person in a single transaction shall
23 do all of the following:

24 (a) Pay the seller of that container by check or with a
25 similar financial instrument. A dealer may not purchase 10 or more
26 plastic bulk merchandise containers for cash in a single
27 transaction or as part of a barter or other similar trade

1 transaction.

2 (b) Verify that the seller is at least 16 years of age.

3 (2) An individual shall not sell a plastic bulk merchandise
4 container to a dealer unless he or she does all of the following at
5 the time of sale:

6 (a) Presents to the dealer an operator's or chauffeur's
7 license, military identification card, Michigan identification
8 card, passport, or other government-issued identification document
9 that includes a photograph and allows the dealer to make a
10 photocopy or electronic copy of that document.

11 (b) Executes a written statement that certifies that the
12 seller owns or is otherwise authorized to sell the plastic bulk
13 merchandise container to the dealer and that the seller has not
14 been convicted of a crime involving the theft, conversion, or sale
15 of bulk plastic merchandise containers.

16 Sec. 7. (1) Subject to subsection (3), a dealer must prepare
17 an accurate and legible record of each purchase of 10 or more
18 plastic bulk merchandise containers from a person in a single
19 transaction. The record shall include the information described in
20 subsection (2). A dealer shall retain a record prepared under this
21 section for at least 1 year; shall keep all of the records prepared
22 under this section in a location that is readily accessible to a
23 local, state, or federal law enforcement agency for inspection
24 during normal business hours; and shall make the records or copies
25 of those records available to any local, state, or federal law
26 enforcement agency that reasonably suspects that a violation of
27 this act has occurred.

1 (2) A record of a purchase transaction described in subsection
2 (1) shall contain all of the following information:

3 (a) The name, address, and identifying number from the
4 seller's identification document described in section 5(2)(a) or a
5 legible scan or photocopy of that identification document. If a
6 dealer engages in more than 1 transaction with a seller, the
7 purchaser may retain the information described in this subdivision
8 for that seller in a separate file and use the information in that
9 file for future transactions.

10 (b) The date and time of the transaction.

11 (c) The quantity of plastic bulk merchandise containers
12 purchased.

13 (d) A description of the plastic bulk merchandise containers
14 and any identifying information shown on the containers.

15 (e) The amount paid for the plastic bulk merchandise
16 containers and the method of payment.

17 (f) A signed statement from the seller that the seller is the
18 owner of the plastic bulk merchandise containers or is otherwise
19 authorized to sell the containers to the dealer.

20 (g) A thumbprint of the seller.

21 (3) A dealer is not required to prepare and retain a record of
22 a purchase of 10 or more plastic bulk merchandise containers from a
23 person in a single transaction if all of the following are met:

24 (a) The dealer has an industrial or commercial account with
25 the seller; payments made by the dealer on the account are made by
26 check or similar financial instrument; and those payments are made
27 directly to the seller.

1 (b) The personal and business identifying information of the
2 seller described in subsection (2)(a) is on file with the dealer,
3 and at least every 2 years, the dealer periodically reviews the
4 information and determines that the information is current and
5 correct.

6 Sec. 9. (1) A dealer shall tag and hold a plastic bulk
7 merchandise container purchased from a seller for at least 7 days
8 if any of the following are met:

9 (a) The plastic bulk merchandise container has altered or
10 obliterated serial numbers, and the person that delivers the
11 plastic bulk merchandise container does not have a written receipt
12 or documentation for the container.

13 (b) There is identifying information shown on the plastic bulk
14 merchandise container; because of that information, the dealer
15 knows or reasonably should know that the plastic bulk merchandise
16 container is or was the property of a specific business; and the
17 person delivering the plastic bulk merchandise container does not
18 have a written receipt or documentation for the container.

19 (c) The plastic bulk merchandise container is subject to a
20 notification or bulletin from any law enforcement agency
21 that the dealer received before the purchase of the plastic bulk
22 merchandise container.

23 (2) Section 7 applies to a purchase of a plastic bulk
24 merchandise container that is subject to subsection (1).

25 (3) Subsection (1) does not apply to a dealer's purchase of a
26 plastic bulk merchandise container from another dealer if that
27 other dealer complied with subsection (1) concerning that

1 container.

2 (4) If subsection (1) did not apply to the initial purchase of
3 a plastic bulk merchandise container by a dealer, subsection (1)
4 does not apply to the resale of that container by the dealer to
5 another dealer.

6 Sec. 11. (1) If a dealer violates section 7(1) or section 9
7 and knows or has reason to know that it is violating that section,
8 the dealer is guilty of a misdemeanor punishable by imprisonment
9 for not more than 93 days or a fine of not more than \$500.00, or
10 both.

11 (2) If a person buys or sells 10 or more plastic bulk
12 merchandise containers from a person in a single transaction and
13 knows or has reason to know that they are stolen, the person is
14 guilty of a felony punishable by imprisonment for not more than 5
15 years or a fine of not more than \$5,000.00, or both, for a first
16 offense and is guilty of a felony punishable by imprisonment for
17 not more than 5 years or a fine of not more than \$10,000.00, or
18 both, for a second or subsequent offense.

19 Sec. 13. If an action of a person violates this act and the
20 person knows or has reason to know that the action violates this
21 act, the person is responsible for a state civil infraction and may
22 be ordered to pay a civil fine of not more than \$5,000.00.

23 Sec. 15. (1) A person may bring an action in a court of
24 competent jurisdiction for monetary damages suffered from a
25 violation of this act by a seller or a dealer. If the violation
26 involves the theft of 10 or more plastic bulk merchandise
27 containers, the court shall award treble damages for the value of

1 the stolen plastic bulk merchandise containers.

2 (2) The court may award costs regarding any aspect of an
3 action brought under subsection (1).

4 (3) As used in this section, "value of the plastic bulk
5 merchandise containers stolen" means the highest of the following:

6 (a) The replacement cost of the stolen plastic bulk
7 merchandise containers.

8 (b) The cost of repairing the damage caused by the theft of
9 the plastic bulk merchandise containers.

10 (c) The total of subdivisions (a) and (b).

11 Sec. 17. (1) The remedies under this act are cumulative and do
12 not affect the ability or right of any person to bring any action
13 under this or any other civil, criminal, or regulatory act or
14 ordinance that is otherwise not prohibited by law.

15 (2) This act does not exempt or release any person from the
16 following:

17 (a) Obtaining and maintaining a license under any other
18 statute or ordinance.

19 (b) Complying with the requirements of any other statute or
20 ordinance.

21 Enacting section 1. This act takes effect 180 days after the
22 date it is enacted into law.