

ENROLLED
CS/CS/HB 1393

2013 Legislature

1
2 An act relating to agricultural storage and shipping
3 containers; amending s. 506.19, F.S.; authorizing the
4 use of certain brands and marks on containers used for
5 the storage and transport of agricultural and other
6 commercial products to designate and distinguish
7 ownership of the containers; creating s. 506.265,
8 F.S.; providing definitions; providing requirements
9 for the sale and purchase of a specified number of
10 plastic bulk merchandise containers; providing that
11 prosecuting attorneys may inspect records of purchase
12 at any time upon reasonable notice; providing criminal
13 and civil penalties; providing an exception for the
14 operator of a waste management facility and certain
15 tax-exempt entities; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 506.19, Florida Statutes, is amended to
20 read:

21 506.19 Protection of owners of marked or branded field
22 boxes or other specified containers; recordation.—Any person who
23 owns ~~being the owner of~~ field boxes, pallets, crates,
24 containers, or receptacles used in the general production,
25 harvesting, packing, transportation, or marketing of fruits or
26 vegetables or their byproducts or used for the storage or
27 transport of agricultural or other commercial goods in this the
28 state may adopt for his or her exclusive use and ownership a

ENROLLED
CS/CS/HB 1393

2013 Legislature

29 ~~particular~~ mark or brand that designates or distinguishes ~~to~~
 30 ~~designate and distinguish~~ his or her ownership thereof and may
 31 identify his or her field boxes, pallets, crates, containers, or
 32 receptacles ~~so used~~ with a such mark or brand using in the form
 33 ~~of such combinations,~~ initials, symbols, designs, ~~or~~ names, or
 34 any combination thereof ~~as he or she may desire,~~ by plainly and
 35 distinctly stamping, stenciling, painting, cutting, etching, or
 36 burning the mark or brand ~~same~~ into or upon both ends or sides
 37 of the such field boxes, pallets, crates, receptacles, or
 38 containers. For purposes of any court or administrative
 39 proceeding, if a copy of the mark or brand is filed and recorded
 40 with the Department of Agriculture and Consumer Services
 41 pursuant to this chapter, ~~and~~ the presence of this such
 42 identifying mark or brand and the required registration number
 43 on any field box, pallet, crate, container, or receptacle is
 44 ~~whenever a copy or description thereof shall have been filed and~~
 45 ~~recorded in the office of the Department of Agriculture and~~
 46 ~~Consumer Services as herein provided for,~~ shall, in any court
 47 and in any proceedings in this state, be prima facie evidence of
 48 the ownership ~~of such boxes, pallets, crates, containers, or~~
 49 ~~receptacles by the person in whose name such mark or brand may~~
 50 ~~have been recorded, provided such mark or brand shall have been~~
 51 ~~recorded with the Department of Agriculture and Consumer~~
 52 ~~Services as herein provided and shall bear the registered number~~
 53 ~~herein provided for.~~

54 Section 2. Section 506.265, Florida Statutes, is created
 55 to read:

56 506.265 Purchase of plastic bulk merchandise containers.-

57 | (1) As used in this section, the term:
 58 | (a) "Bona fide purchaser" means a person who in good faith
 59 | makes a purchase without knowledge of another person's
 60 | outstanding rights.
 61 | (b) "Noncash payment" means payment by a method other than
 62 | coins or currency.
 63 | (c) "Plastic bulk merchandise container" means a plastic
 64 | crate or shell used by a product manufacturer, distributor, or
 65 | retailer for the bulk transportation or storage of goods, and
 66 | includes a plastic pallet used as a portable platform upon which
 67 | containers, products, or materials may be placed to facilitate
 68 | handling.
 69 | (d) "Proof of ownership" means a bill of sale or other
 70 | evidence showing that a person who claims to be the owner of an
 71 | item is the bona fide purchaser who purchased the item for fair
 72 | market value.
 73 | (2) A person who purchases five or more plastic bulk
 74 | merchandise containers from one seller shall:
 75 | (a) Obtain from the seller proof of ownership of the
 76 | containers.
 77 | (b) Maintain a record that contains the date of the
 78 | transaction; the seller's or consignee's name, address, and
 79 | telephone number; and a description of the containers, including
 80 | the number of containers being sold, each container's serial
 81 | number, and other identifying marks.
 82 | (c) Verify the seller's identity with a valid driver
 83 | license or other government-issued photo identification card and
 84 | maintain a copy thereof in the record of sale.

ENROLLED
CS/CS/HB 1393

2013 Legislature

85 (d) Make a noncash payment for five or more plastic bulk
86 merchandise containers and record the method of payment used in
87 each transaction.

88 (3) The purchaser shall maintain required records for at
89 least 2 years after the date of purchase or delivery, whichever
90 is later. State attorneys of the judicial circuits in this state
91 may inspect these records at any time upon reasonable notice.

92 (4) (a) As used in this subsection, the term "value" has
93 the same meaning as provided in s. 812.012.

94 (b) A person who violates this section in a transaction
95 valued at \$10,000 or less commits a misdemeanor of the first
96 degree, punishable as provided in s. 775.082 or s. 775.083.

97 (c) A person who violates this section in a transaction
98 valued at more than \$10,000 commits a felony of the third
99 degree, punishable as provided in s. 775.082, s. 775.083, or s.
100 775.084.

101 (d) A person who violates this section is liable to the
102 owner of a stolen plastic bulk merchandise container for three
103 times the replacement value of the stolen plastic bulk
104 merchandise container. The owner of the plastic bulk merchandise
105 container may bring an action in a court of competent
106 jurisdiction to recover monetary damages and attorney fees and
107 costs incurred in maintaining the action.

108 (5) This section does not apply to the collection,
109 receipt, or recycling of plastic bulk merchandise containers by
110 the operator of a waste management facility or an entity exempt
111 from federal income tax under s. 501(c)(3) of the Internal
112 Revenue Code.

ENROLLED
CS/CS/HB 1393

2013 Legislature

113 | Section 3. This act shall take effect October 1, 2013. |