

By Senator Montford

3-00320A-13

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1                   A bill to be entitled  
2           An act relating to agricultural storage and shipping  
3           containers; amending s. 506.19, F.S.; providing that  
4           an owner of containers used for the storage or  
5           transport of agricultural or other commercial products  
6           may adopt for his or her exclusive use a particular  
7           mark or brand to designate and distinguish ownership  
8           of the containers; making technical and grammatical  
9           changes; creating s. 506.265, F.S.; providing  
10          definitions; requiring that a person who purchases  
11          five or more plastic bulk merchandise containers from  
12          one seller obtain proof of ownership, verify the  
13          seller's identity, pay noncash, and record and  
14          maintain other information for a specified period of  
15          time; providing that prosecuting attorneys may inspect  
16          the records at any time upon reasonable notice;  
17          providing an exception for licensed waste haulers;  
18          creating s. 506.266, F.S.; providing criminal and  
19          civil penalties; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23           Section 1. Section 506.19, Florida Statutes, is amended to  
24           read:

25           506.19 Protection of owners of marked or branded field  
26           boxes or other specified containers; recordation.—Any person who  
27           owns ~~being the owner of~~ field boxes, pallets, crates,  
28           containers, or receptacles used in the general production,  
29           harvesting, packing, transportation, or marketing of fruits or

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

58 Section 2. Section 506.265, Florida Statutes, is created to

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59 read:

60 506.265 Purchase of plastic bulk merchandise containers.-61 (1) As used in this section, the term:62 (a) "Bona fide purchaser" means a person who in good faith  
63 makes a purchase without knowledge of another person's  
64 outstanding rights.65 (b) "Plastic bulk merchandise container" means a plastic  
66 crate or shell used by a product manufacturer, distributor, or  
67 retailer for the bulk transportation or storage of goods and  
68 includes a plastic pallet used as a portable platform upon which  
69 containers, products, or materials may be placed to facilitate  
70 handling.71 (c) "Proof of ownership" means a bill of sale or other  
72 evidence showing that a person who claims to be the owner of an  
73 item is the bona fide purchaser who purchased the item for fair  
74 market value.75 (2) A person who purchases five or more plastic bulk  
76 merchandise containers from one seller shall:77 (a) Obtain from the seller proof of ownership of the  
78 containers and maintain a record that includes the date of the  
79 transaction; the seller's or consignee's name, address, and  
80 telephone number; and a description of the containers, including  
81 the number of containers being sold, each container's serial  
82 number, and other identifying marks.83 (b) Verify the seller's identity with a valid driver  
84 license or other government-issued photo identification card and  
85 maintain a copy thereof in the record of sale.86 (c) Make a noncash payment for five or more plastic bulk  
87 merchandise containers and record the method of payment used in

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88 each transaction.

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

93 (4) This section does not apply to the collection, receipt,  
94 or recycling of plastic bulk merchandise containers by a  
95 licensed waste hauler.

96 Section 3. Section 506.266, Florida Statutes, is created to  
97 read:

98 506.266 Penalties.—

99 (1) A person who violates s. 506.265 in a transaction  
100 valued at \$10,000 or less commits a misdemeanor of the first  
101 degree, punishable as provided in s. 775.082 or s. 775.083.

102 (2) A person who violates s. 506.265 in a transaction  
103 valued at more than \$10,000 commits a felony of the first  
104 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
105 775.084.

106 (3) A person who violates s. 506.265 is liable to the owner  
107 of a stolen plastic bulk merchandise container for three times  
108 the replacement value of the stolen plastic bulk merchandise  
109 container. The owner of the plastic bulk merchandise container  
110 may bring an action in a court of competent jurisdiction to  
111 recover money damages and attorney fees and costs incurred in  
112 maintaining the action.

113 Section 4. This act shall take effect October 1, 2013.