

By the Committees on Criminal Justice; and Agriculture; and
Senator Montford

591-02614-13

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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 and
18 certain tax-exempt entities; creating s. 506.266,
19 F.S.; providing criminal and civil penalties;
20 providing an effective date.

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

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

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

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

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59 Section 2. Section 506.265, Florida Statutes, is created to
60 read:

61 506.265 Purchase of plastic bulk merchandise containers.-

62 (1) As used in this section, the term:

63 (a) "Bona fide purchaser" means a person who in good faith
64 makes a purchase without knowledge of another person's
65 outstanding rights.

66 (b) "Noncash payment" means payment by a method other than
67 the use of coins or currency.

68 (c) "Plastic bulk merchandise container" means a plastic
69 crate or shell used by a product manufacturer, distributor, or
70 retailer for the bulk transportation or storage of goods and
71 includes a plastic pallet used as a portable platform upon which
72 containers, products, or materials may be placed to facilitate
73 handling.

74 (d) "Proof of ownership" means a bill of sale or other
75 evidence showing that a person who claims to be the owner of an
76 item is the bona fide purchaser who purchased the item for fair
77 market value.

78 (2) A person who purchases five or more plastic bulk
79 merchandise containers from one seller must:

80 (a) Obtain proof of ownership from the seller of the
81 containers and maintain a record that includes the date of the
82 transaction; the seller's or consignee's name, address, and
83 telephone number; and a description of the containers, including
84 the number of containers being sold, each container's serial
85 number, and other identifying marks.

86 (b) Verify the seller's identity with a valid driver
87 license or other government-issued photo identification card and

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88 maintain a copy thereof in the record of sale.

89 (c) Make a noncash payment and record the method of payment
90 used in each transaction.

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

95 (4) This section does not apply to:

96 (a) The collection, receipt, or recycling of plastic bulk
97 merchandise containers by a licensed waste hauler; or

98 (b) The possession of plastic bulk merchandise containers
99 by an entity exempt from federal income tax under s. 501(c)(3)
100 of the Internal Revenue Code.

101 Section 3. Section 506.266, Florida Statutes, is created to
102 read:

103 506.266 Penalties.—

104 (1) As used in subsections (2) and (3), the term "value"
105 has the same meaning as in s. 812.012.

106 (2) A person who violates s. 506.265 in a transaction in
107 which the value of the plastic bulk merchandise containers is
108 \$10,000 or less commits a misdemeanor of the first degree,
109 punishable as provided in s. 775.082 or s. 775.083.

110 (3) A person who violates s. 506.265 in a transaction in
111 which the value of the plastic bulk merchandise containers is
112 more than \$10,000 commits a felony of the third degree,
113 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

114 (4) A person who violates s. 506.265 is liable to the owner
115 of a stolen plastic bulk merchandise container for three times
116 the replacement value of the stolen plastic bulk merchandise

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117 container. The owner of the plastic bulk merchandise container
118 may bring an action in a court of competent jurisdiction to
119 recover money damages and attorney fees and costs incurred in
120 maintaining the action.

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