

BILL ANALYSIS

Senate Research Center
81R213 ATP-D

H.B. 2128
By: Giddings (West)
Business & Commerce
5/20/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1871, enacted by the 80th Legislature, Regular Session, 2007, requires a person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers to obtain from the seller proof of ownership for the containers and a record identifying the seller's information. H.B. 1871 made a person who violates this provision liable to the state for a civil penalty; however, many business and law enforcement authorities have expressed concern about the lack of prosecuting authority to pursue these crimes.

This bill grants the attorney general or appropriate prosecuting attorney the authority to investigate an alleged violation of requirements imposed on a person in the business of recycling, shredding, or destroying plastic bulk merchandise containers and to recover reasonable expenses.

H.B. 2128 amends current law relating to the enforcement of regulations regarding the sale of plastic bulk merchandise containers.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 35.63, Business & Commerce Code, as added by Chapter 307, Acts of the 80th Legislature, Regular Session, 2007, by amending Subsection (f) and adding Subsection (g), as follows:

- (f) Authorizes the attorney general or appropriate prosecuting attorney to investigate an alleged violation of this section and sue to collect a civil penalty under this section.
- (g) Authorizes the attorney general or appropriate prosecuting attorney to recover reasonable expenses, including court costs, attorney's fees, investigative costs, witness fees, and deposition expenses, incurred in recovering a civil penalty under this section.

SECTION 2. Amends Section 204.004, Business & Commerce Code, as effective September 1, 2009, as follows:

- Sec. 204.004. New heading: INVESTIGATIVE AND ENFORCEMENT AUTHORITY. (a) Authorizes the attorney general or appropriate prosecuting attorney to investigate an alleged violation of this chapter and sue to collect a civil penalty under this chapter.
- (b) Authorizes the attorney general or appropriate prosecuting attorney to recover reasonable expenses, including court costs, attorney's fees, investigative costs, witness fees, and deposition expenses, incurred in recovering a civil penalty under this section.

SECTION 3. (a) Provides that Section 1 of this Act takes effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in existing codes does not become law. Provides that if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in existing codes becomes law, Section 1 of this Act has no effect.

(b) Provides that Section 2 of this Act takes effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in existing codes becomes law. Provides that if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in existing codes does not become law, Section 2 of this Act has no effect.

SECTION 4. Effective date: September 1, 2009.