

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2289

Introduced by Assembly Member Ruskin

February 22, 2006

~~An act to add Chapter 3 (commencing with Section 42150) to Article 3 of Division 30 of the Public Resources Code, relating to solid waste. An act to amend Sections 22750, 22751, 22752, 22753, and 22754 of the Business and Professions Code, relating to bakery trays.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2289, as amended, Ruskin. ~~Solid waste:—plastic reprocessing.~~ Bakery trays.

Existing law makes it a crime for an unauthorized person, as defined, to possess a bakery tray, bakery basket, or merchandise pallet. Existing law also makes it a crime to obliterate the company owner's name on the bakery tray, bakery basket, or merchandise pallet. Existing law specifies that an unauthorized person who possesses a bakery tray, bakery basket, or merchandise pallet is subject to a civil action and requires punitive damages to be awarded to a person awarded actual damages. Under existing law, a purchaser or lessee of a bakery tray, bakery basket, or merchandise pallet is required to retain a copy of the bill of sale or other evidence that supports the sale.

This bill would make it a crime for an unauthorized person, as defined, to possess a merchandise shell, milk case, or milk crate and would also make it a crime to obliterate the company owner's name on the merchandise shell, milk case, or milk crate. The bill would

eliminate the requirement that punitive damages be awarded to a person awarded actual damages in any civil action pursuant to these provisions. The bill would require the purchaser or lessee of a bakery tray, bakery basket, merchandise pallet, merchandise shell, milk case, or milk crate to retain a copy of the bill of sale or other evidence that supports the sale in order to recycle, shred, or destroy the container and would also require those persons involved in the recycling, shredding and destruction process to obtain a copy of the bill of sale or other evidence. The bill would also make it a crime to obliterate or destroy the brand registration upon a bakery tray, bakery basket, merchandise pallet, merchandise shell, milk case, or milk crate, as specified. By creating a new crime or expanding an existing crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The existing California Integrated Waste Management Act of 1989 establishes an integrated waste management program administered by the California Integrated Waste Management Board.~~

~~This bill would require a person who engages in plastic reprocessing, as defined, in this state to obtain a permit from the board that authorizes the person to engage in that activity. The bill would require the board to adopt regulations for the issuance of a permit to a person engaged in plastic reprocessing and would require the regulations to include a prohibition on violating specified provisions regarding the possession, use, or destruction of certain dairy equipment. The bill would also require the regulations to specify the conditions under which the board may inspect the operations of a plastic reprocessor, and the conditions under which the board may revoke a permit.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 22750 of the Business and Professions*
- 2 *Code is amended to read:*

1 22750. For purposes of this chapter:

2 (a) ~~“Bakery, a “bakery tray” or “bakery basket,”~~
3 ~~“merchandise pallet” or “merchandise shell,” or “milk case” or~~
4 ~~“milk crate” is a plastic, wooden, or metal container that holds~~
5 ~~bread or other baked goods and is used by a distributor, retailer,~~
6 ~~or an agent of the distributor or retailer as a means to transport,~~
7 ~~store, or carry those products, which has a notice permanently~~
8 ~~affixed to it that does all of the following: (1) identifies the~~
9 ~~company name of the owner of the item; (2) notifies the public~~
10 ~~that the unauthorized possession of the item is a violation of state~~
11 ~~law; and (3) lists an address or telephone number for returning~~
12 ~~the item to the owner.~~

13 (b) ~~“Merchandise pallet” is a wooden or plastic carrier or~~
14 ~~container, approximately 48 inches by 40 inches with a four-way~~
15 ~~forklift entry, used by a manufacturer or distributor to transport~~
16 ~~merchandise to retail outlets, which has a notice permanently~~
17 ~~affixed to it that does all of the following: (1) identifies the~~
18 ~~company name of the owner of the pallet; (2) notifies the public~~
19 ~~that the unauthorized possession of the pallet is a violation of~~
20 ~~state law; and (3) lists a telephone number or address for~~
21 ~~returning the pallet to the owner.~~

22 *SEC. 2. Section 22751 of the Business and Professions Code*
23 *is amended to read:*

24 22751. (a) Any person who purchases or leases a bakery
25 tray, bakery basket, ~~or~~ merchandise pallet, *merchandise shell,*
26 *milk case, or milk crate* shall retain a copy of the bill of sale or
27 other evidence that supports the purchase *in order to recycle,*
28 *shred, or destroy the container.*

29 (b) *Any person involved in the recycling, shredding, and*
30 *destruction process shall obtain a copy of the bill of sale or other*
31 *evidence that supports the purchase in order to recycle, shred, or*
32 *destroy a bakery tray, bakery basket, merchandise pallet,*
33 *merchandise shell, milk case, or milk crate.*

34 *SEC. 3. Section 22752 of the Business and Professions Code*
35 *is amended to read:*

36 22752. As used in this chapter, an “unauthorized person” with
37 respect to possession of a bakery tray, bakery basket, ~~or~~
38 merchandise pallet, *merchandise shell, milk case, or milk crate*
39 includes anyone in possession of one or more of these items,
40 except the following:

- 1 (a) The company owner.
- 2 (b) A person in lawful possession of the item.
- 3 (c) A person who, with the consent of the company owner or
- 4 the company’s agent, has temporary possession of the item as a
- 5 result of the purchase of the products or merchandise transported
- 6 using the item.

7 *SEC. 4. Section 22753 of the Business and Professions Code*
 8 *is amended to read:*

9 22753. The following acts are punishable as provided in
 10 subdivision (b) of Section 489 or in Section 490 of the Penal
 11 Code as to any bakery tray, bakery basket, ~~or~~ merchandise pallet,
 12 *merchandise shell, milk case, or milk crate* described in Section
 13 22750:

14 (a) Possession of a bakery tray, bakery basket, ~~or~~ merchandise
 15 pallet, *merchandise shell, milk case, or milk crate* by an
 16 unauthorized person.

17 (b) Obliteration of the company owner’s name on the bakery
 18 tray, bakery basket, ~~or~~ merchandise pallet, *merchandise shell,*
 19 *milk case, or milk crate* except by the owner.

20 (c) *Obliteration or destruction of the brand registration upon*
 21 *a bakery tray, bakery basket, merchandise pallet, merchandise*
 22 *shell, milk case, or milk crate, that has a value of four hundred*
 23 *dollars (\$400) or less, when are marked with a brand*
 24 *registration.*

25 *SEC. 5. Section 22754 of the Business and Professions Code*
 26 *is amended to read:*

27 22754. An unauthorized person who possesses a bakery tray,
 28 bakery basket, ~~or~~ merchandise pallet, *merchandise shell, milk*
 29 *case, or milk crate* is subject to civil action. ~~Punitive damages~~
 30 ~~under Section 3294 of the Civil Code and costs shall be awarded~~
 31 ~~to a person who is awarded actual damages arising from a~~
 32 ~~violation of this chapter.~~

33 *SEC. 6. No reimbursement is required by this act pursuant to*
 34 *Section 6 of Article XIII B of the California Constitution because*
 35 *the only costs that may be incurred by a local agency or school*
 36 *district will be incurred because this act creates a new crime or*
 37 *infraction, eliminates a crime or infraction, or changes the*
 38 *penalty for a crime or infraction, within the meaning of Section*
 39 *17556 of the Government Code, or changes the definition of a*

1 *crime within the meaning of Section 6 of Article XIII B of the*
2 *California Constitution.*

3 SECTION 1. ~~Chapter 3 (commencing with Section 42150) is~~
4 ~~added to Article 3 of Division 30 of the Public Resources Code,~~
5 ~~to read:~~

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~~CHAPTER 3. PLASTIC REPROCESSING PERMITS~~

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~~42150. For purposes of this chapter, the following definitions~~
~~shall apply:~~

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~~(a) "Plastic reprocessing" means the grinding up or otherwise~~
~~processing plastic dairy crates or any other plastic container or~~
~~conveyance, for purposes of selling or reusing the product~~
~~resulting from that process.~~

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~~(b) "Plastic dairy crate" means a container, cabinet, or other~~
~~dairy equipment that is marked with a brand that is registered~~
~~pursuant to Chapter 10 (commencing with Section 34501) of Part~~
~~1 of Division 15 of the Food and Agricultural Code.~~

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~~42151. A person who engages in plastic reprocessing in this~~
~~state shall obtain a permit from the board pursuant to this chapter~~
~~that authorizes the person to engage in that activity.~~

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~~42152. The board shall adopt regulations for the issuance of a~~
~~permit to a person engaged in plastic reprocessing pursuant to~~
~~this chapter. The regulations shall include, but not be limited to,~~
~~all of the following:~~

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~~(a) A prohibition on the violation of Sections 565 and 566 of~~
~~the Penal Code by a permitted plastic reprocessor.~~

~~(b) The conditions under which the board may inspect the~~
~~operations of a plastic reprocessor to verify the ownership of, and~~
~~the source of, any materials received or sold.~~

~~(c) The conditions under which the board may revoke a permit~~
~~issued pursuant to this chapter.~~