

AMENDED IN SENATE JUNE 15, 2006

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 amend Sections 22750, 22751, 22752, 22753, and 22754 of the Business and Professions Code, relating to bakery trays. An act to add Chapter 24.5 (commencing with Section 22755) to Division 8 of the Business and Professions Code, relating to plastic merchandise containers.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2289, as amended, Ruskin. ~~Bakery trays.~~ *Plastic merchandise containers.*

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 require any person involved in the recycling, shredding, or destruction of a plastic merchandise container, as defined, to obtain a proof of ownership record from the person selling or transferring the container, and to retain the required record for a specified time. A violation of these provisions would be a misdemeanor. 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.

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

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

1     SECTION 1. Chapter 24.5 (commencing with Section 22755)  
2     is added to Division 8 of the Business and Professions Code, to  
3     read:

4  
5             CHAPTER 24.5. PLASTIC MERCHANDISE CONTAINERS

6  
7     22755. (a) For purposes of this section, a plastic  
8     merchandise container means plastic crates used by a  
9     distributor, retailer, or an agent of the distributor or retailer as a

1 means to transport, store, or carry milk, eggs, or bottled  
2 beverages.

3 (b) Any person involved in the recycling, shredding, or  
4 destruction of a plastic merchandise container shall obtain a  
5 proof of ownership record from the person selling or otherwise  
6 transferring the plastic merchandise container. The proof of  
7 ownership record shall include all of the following information:

8 (1) The name, address, telephone number, and signature of the  
9 seller or transferor or the seller's or transferor's authorized  
10 representative.

11 (2) The name and address of the buyer or consignee if not  
12 sold.

13 (3) A description of the product including number of units.

14 (4) The date of transaction.

15 (c) The information required to be collected by this section  
16 shall be kept for one year from the date of purchase or delivery,  
17 whichever is later.

18 (d) Any person who violates the provisions of this section is  
19 guilty of a misdemeanor.

20 SEC. 2. No reimbursement is required by this act pursuant to  
21 Section 6 of Article XIII B of the California Constitution because  
22 the only costs that may be incurred by a local agency or school  
23 district will be incurred because this act creates a new crime or  
24 infraction, eliminates a crime or infraction, or changes the  
25 penalty for a crime or infraction, within the meaning of Section  
26 17556 of the Government Code, or changes the definition of a  
27 crime within the meaning of Section 6 of Article XIII B of the  
28 California Constitution.

29 SECTION 1. ~~Section 22750 of the Business and Professions~~  
30 ~~Code is amended to read:~~

31 ~~22750. For purposes of this chapter~~

32 ~~, a "bakery tray" or "bakery basket," "merchandise pallet" or~~  
33 ~~"merchandise shell," or "milk case" or "milk crate" is a plastic,~~  
34 ~~wooden, or metal container used by a distributor, retailer, or an~~  
35 ~~agent of the distributor or retailer as a means to transport, store,~~  
36 ~~or carry products, which has a notice permanently affixed to it~~  
37 ~~that does all of the following: (1) identifies the company name of~~  
38 ~~the owner of the item; (2) notifies the public that the~~  
39 ~~unauthorized possession of the item is a violation of state law;~~

1 and (3) lists an address or telephone number for returning the  
2 item to the owner.

3 ~~SEC. 2. Section 22751 of the Business and Professions Code~~  
4 ~~is amended to read:~~

5 ~~22751. (a) Any person who purchases or leases a bakery tray,~~  
6 ~~bakery basket, merchandise pallet, merchandise shell, milk case,~~  
7 ~~or milk crate shall retain a copy of the bill of sale or other~~  
8 ~~evidence that supports the purchase in order to recycle, shred, or~~  
9 ~~destroy the container.~~

10 ~~(b) Any person involved in the recycling, shredding, and~~  
11 ~~destruction process shall obtain a copy of the bill of sale or other~~  
12 ~~evidence that supports the purchase in order to recycle, shred, or~~  
13 ~~destroy a bakery tray, bakery basket, merchandise pallet,~~  
14 ~~merchandise shell, milk case, or milk crate.~~

15 ~~SEC. 3. Section 22752 of the Business and Professions Code~~  
16 ~~is amended to read:~~

17 ~~22752. As used in this chapter, an “unauthorized person” with~~  
18 ~~respect to possession of a bakery tray, bakery basket,~~  
19 ~~merchandise pallet, merchandise shell, milk case, or milk crate~~  
20 ~~includes anyone in possession of one or more of these items,~~  
21 ~~except the following:~~

22 ~~(a) The company owner.~~

23 ~~(b) A person in lawful possession of the item.~~

24 ~~(c) A person who, with the consent of the company owner or~~  
25 ~~the company’s agent, has temporary possession of the item as a~~  
26 ~~result of the purchase of the products or merchandise transported~~  
27 ~~using the item.~~

28 ~~SEC. 4. Section 22753 of the Business and Professions Code~~  
29 ~~is amended to read:~~

30 ~~22753. The following acts are punishable as provided in~~  
31 ~~subdivision (b) of Section 489 or in Section 490 of the Penal~~  
32 ~~Code as to any bakery tray, bakery basket, merchandise pallet,~~  
33 ~~merchandise shell, milk case, or milk crate described in Section~~  
34 ~~22750:~~

35 ~~(a) Possession of a bakery tray, bakery basket, merchandise~~  
36 ~~pallet, merchandise shell, milk case, or milk crate by an~~  
37 ~~unauthorized person.~~

38 ~~(b) Obliteration of the company owner’s name on the bakery~~  
39 ~~tray, bakery basket, merchandise pallet, merchandise shell, milk~~  
40 ~~case, or milk crate except by the owner.~~

1 ~~(e) Obliteration or destruction of the brand registration upon a~~  
2 ~~bakery tray, bakery basket, merchandise pallet, merchandise~~  
3 ~~shell, milk case, or milk crate, that has a value of four hundred~~  
4 ~~dollars (\$400) or less, when are marked with a brand registration.~~

5 ~~SEC. 5. Section 22754 of the Business and Professions Code~~  
6 ~~is amended to read:~~

7 ~~22754. An unauthorized person who possesses a bakery tray,~~  
8 ~~bakery basket, merchandise pallet, merchandise shell, milk case,~~  
9 ~~or milk crate is subject to civil action.~~

10 ~~SEC. 6. No reimbursement is required by this act pursuant to~~  
11 ~~Section 6 of Article XIII B of the California Constitution because~~  
12 ~~the only costs that may be incurred by a local agency or school~~  
13 ~~district will be incurred because this act creates a new crime or~~  
14 ~~infraction, eliminates a crime or infraction, or changes the~~  
15 ~~penalty for a crime or infraction, within the meaning of Section~~  
16 ~~17556 of the Government Code, or changes the definition of a~~  
17 ~~crime within the meaning of Section 6 of Article XIII B of the~~  
18 ~~California Constitution.~~