

AMENDED IN SENATE JULY 10, 1995
AMENDED IN SENATE JUNE 14, 1995
AMENDED IN ASSEMBLY MAY 17, 1995
AMENDED IN ASSEMBLY APRIL 20, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1208

Introduced by Assembly Member Hawkins

February 23, 1995

An act to amend Sections 22750, 22751, 22752, and 22753 of, to amend the heading of Chapter 24 (commencing with Section 22750) of Division 8 of, to add Section 22754 to, and to repeal Chapter 22 (commencing with Section 22520) of, the Business and Professions Code, relating to business practices.

LEGISLATIVE COUNSEL'S DIGEST

AB 1208, as amended, Hawkins. Business practices.

Under existing law, it is unlawful and punishable as theft for any unauthorized person, as defined, to possess a bakery tray or basket, or a beverage container pallet or grocery pallet, as specified. Existing law provides that obliteration of a mark identifying the owner on any of these items is also punishable as theft.

This bill would revise and recast these provisions, and also expand these provisions to cover all merchandise pallets, as defined.

Existing law provides that a person who purchases or leases a beverage container or grocery pallet must retain a copy of the bill of sale or other evidence that supports the purchase.

This bill would impose the same requirement on a person who purchases or leases a bakery tray or basket, or any merchandise pallet.

This bill would provide that an unauthorized person who possesses one or more of these items is subject to civil action. ~~Treble damages, attorneys’ fees, Punitive damages~~ and costs shall be awarded to a person who is awarded actual damages arising from a violation of the above provisions.

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

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

1 SECTION 1. Chapter 22 (commencing with Section
2 22520) of the Business and Professions Code is repealed.

3 SEC. 2. The heading of Chapter 24 (commencing
4 with Section 22750) of Division 8 of the Business and
5 Professions Code is amended to read:

6

7 CHAPTER 24. BAKERY TRAYS, BAKERY BASKETS, AND
8 MERCHANDISE PALLETS

9 SEC. 3. Section 22750 of the Business and Professions
10 Code is amended to read:

11 22750. For purposes of this chapter:

12 (a) “Bakery tray” or “bakery basket” is a plastic or
13 metal container that holds bread or other baked goods
14 and is used by a distributor, retailer, or an agent of the
15 distributor or retailer as a means to transport, store, or
16 carry those products, 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 item; (2) notifies the
19 public that the unauthorized possession of the item is a
20 violation of state law; and (3) lists an address or telephone
21 number for returning the item to the owner.

22 (b) “Merchandise pallet” is a wooden or plastic carrier
23 or container, approximately 48 inches by 40 inches with
24 a four-way forklift entry, used by a manufacturer or



1 distributor to transport merchandise to retail outlets,
2 which has a notice permanently affixed to it that does all
3 of the following: (1) identifies the company name of the
4 owner of the pallet; (2) notifies the public that the
5 unauthorized possession of the pallet is a violation of state
6 law; and (3) lists a telephone number or address for
7 returning the pallet to the owner.

8 SEC. 4. Section 22751 of the Business and Professions
9 Code is amended to read:

10 22751. Any person who purchases or leases a bakery
11 tray, bakery basket, or merchandise pallet shall retain a
12 copy of the bill of sale or other evidence that supports the
13 purchase.

14 ~~SEC. 5. Section 22752 of the Business and Professions~~
15 ~~Code is amended to read:~~

16 ~~22752. As used in this chapter, an “unauthorized~~
17 ~~person” with respect to possession of a bakery tray,~~
18 ~~bakery basket, or merchandise pallet includes anyone in~~
19 ~~possession of one or more of these items, except the~~
20 ~~following:~~

- 21 ~~(a) The company owner.~~
- 22 ~~(b) A person in lawful possession of the item.~~
- 23 ~~(c) A person who, with the consent of the company~~
24 ~~owner or the company’s agent, has temporary possession~~
25 ~~of the item as a result of the purchase of the products or~~
26 ~~merchandise transported using the item.~~

27 SEC. 5. Section 22752 of the Business and Professions
28 Code is amended to read:

29 22752. As used in this chapter, an “unauthorized
30 person” with respect to possession of ~~beverage container~~
31 ~~or grocery pallets~~ *a bakery tray, bakery basket, or*
32 *merchandise pallet* includes anyone in possession of a
33 ~~beverage container or grocery pallet~~ *one or more of these*
34 *items*, except the following:

- 35 ~~(1)~~
- 36 (a) The company owner.
- 37 ~~(2)~~
- 38 (b) A person in lawful possession of the ~~beverage~~
39 ~~container or grocery pallet~~ *item*.
- 40 ~~(3)~~



1 (c) A person who, with the consent of the company
 2 owner or ~~their~~ *the company's* agent, has temporary
 3 possession of a ~~beverage container or grocery pallet~~ *the*
 4 *item* as a result of the purchase of ~~beverage or grocery~~
 5 ~~products packaged and transported on a beverage~~
 6 ~~container or grocery pallet~~ *the products or merchandise*
 7 *transported using the item.*

8 SEC. 6. Section 22753 of the Business and Professions
 9 Code is amended to read:

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

14 (a) Possession of a bakery tray, bakery basket, or
 15 merchandise pallet by an unauthorized person.

16 (b) Obliteration of the company owner's name on the
 17 bakery tray, bakery basket, or merchandise pallet, except
 18 by the owner.

19 SEC. 7. Section 22754 is added to the Business and
 20 Professions Code, to read:

21 22754. An unauthorized person who possesses a
 22 bakery tray, bakery basket, or merchandise pallet is
 23 subject to civil action. ~~Treble damages, attorneys' fees,~~
 24 *Punitive damages under Section 3294 of the Civil Code*
 25 and costs shall be awarded to a person who is awarded
 26 actual damages arising from a violation of this chapter.

