

Assembly Bill No. 1208

Passed the Assembly July 17, 1995

Chief Clerk of the Assembly

Passed the Senate July 14, 1995

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1995, at ____ o'clock __M.

Private Secretary of the Governor



CHAPTER ____

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, 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. Punitive damages and costs shall be awarded to a person who is awarded actual damages arising from a violation of the above provisions.

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

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 Chapter 22 (commencing with Section 22520) of the Business and Professions Code is repealed.



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

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

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

22750. For purposes of this chapter:

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

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

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

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

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

22752. As used in this chapter, an “unauthorized person” with respect to possession of a bakery tray,



bakery basket, or merchandise pallet includes anyone in possession of one or more of these items, except the following:

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

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

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

- (a) Possession of a bakery tray, bakery basket, or merchandise pallet by an unauthorized person.
- (b) Obliteration of the company owner's name on the bakery tray, bakery basket, or merchandise pallet, except by the owner.

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

22754. An unauthorized person who possesses a bakery tray, bakery basket, or merchandise pallet is subject to civil action. Punitive damages under Section 3294 of the Civil Code and costs shall be awarded to a person who is awarded actual damages arising from a violation of this chapter.



Approved _____, 1995

Governor

