

## CHAPTER 2013-211

### Committee Substitute for Committee Substitute for House Bill No. 1393

An act relating to agricultural storage and shipping containers; amending s. 506.19, F.S.; authorizing the use of certain brands and marks on containers used for the storage and transport of agricultural and other commercial products to designate and distinguish ownership of the containers; creating s. 506.265, F.S.; providing definitions; providing requirements for the sale and purchase of a specified number of plastic bulk merchandise containers; providing that prosecuting attorneys may inspect records of purchase at any time upon reasonable notice; providing criminal and civil penalties; providing an exception for the operator of a waste management facility and certain tax-exempt entities; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 506.19, Florida Statutes, is amended to read:

506.19 Protection of owners of marked or branded field boxes or other specified containers; recordation.—Any person who owns ~~being the owner of~~ field boxes, pallets, crates, containers, or receptacles used in the general production, harvesting, packing, transportation, or marketing of fruits or vegetables or their byproducts or used for the storage or transport of agricultural or other commercial goods in this the state may adopt for his or her exclusive use and ownership a particular mark or brand that designates or distinguishes to designate and distinguish his or her ownership thereof and may identify his or her field boxes, pallets, crates, containers, or receptacles ~~so used with a such mark or brand using in the form of such combinations, initials, symbols, designs, or names, or any combination thereof as he or she may desire,~~ by plainly and distinctly stamping, stenciling, painting, cutting, etching, or burning the mark or brand same into or upon both ends or sides of the such field boxes, pallets, crates, receptacles, or containers. For purposes of any court or administrative proceeding, if a copy of the mark or brand is filed and recorded with the Department of Agriculture and Consumer Services pursuant to this chapter, and the presence of this such identifying mark or brand and the required registration number on any field box, pallet, crate, container, or receptacle is whenever a copy or description thereof shall have been filed and recorded in the office of the Department of Agriculture and Consumer Services as herein provided for, shall, in any court and in any proceedings in this state, be prima facie evidence of the ownership of such boxes, pallets, crates, containers, or receptacles by the person in whose name such mark or brand may have been recorded, provided such mark or brand shall have been recorded with the Department of Agriculture and Consumer Services as herein provided and shall bear the registered number herein provided for.

Section 2. Section 506.265, Florida Statutes, is created to read:

506.265 Purchase of plastic bulk merchandise containers.—

(1) As used in this section, the term:

(a) “Bona fide purchaser” means a person who in good faith makes a purchase without knowledge of another person’s outstanding rights.

(b) “Noncash payment” means payment by a method other than coins or currency.

(c) “Plastic bulk merchandise container” means a plastic crate or shell used by a product manufacturer, distributor, or retailer for the bulk transportation or storage of goods, and includes a plastic pallet used as a portable platform upon which containers, products, or materials may be placed to facilitate handling.

(d) “Proof of ownership” means a bill of sale or other evidence showing that a person who claims to be the owner of an item is the bona fide purchaser who purchased the item for fair market value.

(2) A person who purchases five or more plastic bulk merchandise containers from one seller shall:

(a) Obtain from the seller proof of ownership of the containers.

(b) Maintain a record that contains the date of the transaction; the seller’s or consignee’s name, address, and telephone number; and a description of the containers, including the number of containers being sold, each container’s serial number, and other identifying marks.

(c) Verify the seller’s identity with a valid driver license or other government-issued photo identification card and maintain a copy thereof in the record of sale.

(d) Make a noncash payment for five or more plastic bulk merchandise containers and record the method of payment used in each transaction.

(3) The purchaser shall maintain required records for at least 2 years after the date of purchase or delivery, whichever is later. State attorneys of the judicial circuits in this state may inspect these records at any time upon reasonable notice.

(4)(a) As used in this subsection, the term “value” has the same meaning as provided in s. 812.012.

(b) A person who violates this section in a transaction valued at \$10,000 or less commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A person who violates this section in a transaction valued at more than \$10,000 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A person who violates this section is liable to the owner of a stolen plastic bulk merchandise container for three times the replacement value of the stolen plastic bulk merchandise container. The owner of the plastic bulk merchandise container may bring an action in a court of competent jurisdiction to recover monetary damages and attorney fees and costs incurred in maintaining the action.

(5) This section does not apply to the collection, receipt, or recycling of plastic bulk merchandise containers by the operator of a waste management facility or an entity exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

Section 3. This act shall take effect October 1, 2013.

Approved by the Governor June 14, 2013.

Filed in Office Secretary of State June 14, 2013.