

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 46 (Senator Conway)

Education, Health, and Environmental Affairs

Economic Matters

Business Regulation - Returnable Containers - Purchases of Plastic Milk Crates

This bill requires a person who purchases plastic milk crates to make a written record of each transaction of five or more milk crates. The purchaser must verify the seller's identity and lawful possessions of the milk crates, and record a description of units purchased and the date of the transaction. The records must also include the name and address of the purchaser. Records must be kept for one year. A person who violates these provisions is guilty of a misdemeanor and subject to a fine of \$100.

Fiscal Summary

State Effect: The penalty provision of this bill does not materially affect State finances or operations.

Local Effect: None.

Small Business Effect: Potential meaningful for dairy distributors as well as recyclers, shredders, and other purchasers of plastic milk crates.

Analysis

Current Law: A person may register a class of returnable containers, including milk crates, if the person deals in goods delivered in returnable containers that have an identifying name, mark, or device. To register the containers, a person has to clearly describe the containers, including identifying marks, and sign the description before an officer qualified to take an acknowledgement to deeds. The signed and acknowledged description must be published in a newspaper serving the jurisdiction in which the person's principal place of business is located. The description and certificate of

publication must be filed with the Secretary of State. Once fees are paid, the Secretary of State is required to provide the applicant with a certified copy of the recorded filing.

Misdemeanor penalties are established for improper use, damage, or improper transfer of a registered returnable container, as well as defacing the identifying marks on a registered container. A first offense is punishable with imprisonment for up to one year and/or a fine of \$50; subsequent violations may be punished with imprisonment for up to one year and/or a fine of \$250.

A person who receives a registered returnable container has to, on demand, promptly surrender it to the person from whom it was received. A person who receives a registered returnable container that has come into immediate contact with a dairy product must thoroughly clean the inside of the container immediately after emptying the contents. A person who violates these provisions is guilty of a misdemeanor and subject to a fine of \$1.

Background: Recent increases in the value of high-density polyethylene, used to construct milk crates and bakery trays, have led to growth in theft of these containers. The International Dairy Foods Association estimates that 20 million milk crates were stolen in 2006. Recyclers paid an estimated 22 cents per pound for the material in 2007, which was a sharp increase from the previous year's rate of 7 cents per pound. Although the value of this commodity fluctuates (often unpredictably), the 2008 price remained relatively consistent with 2007 levels.

California, Rhode Island, and Texas have passed measures requiring a purchaser of plastic bulk merchandise containers to obtain proof of ownership from a person selling five or more containers and maintain records of these transactions. Similar legislation has been considered in Massachusetts.

Small Business Effect: Purchasers of plastic milk crates that qualify as small businesses, including recyclers and shredders of plastic materials, may experience additional expenditures related to the transaction and recordkeeping requirements of this bill. Small dairy businesses may benefit from fewer thefts and increased ability to prosecute them.

Additional Information

Prior Introductions: SB0494 LR1733 2008 EHE

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division),
Secretary of State, Department of Legislative Services

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