

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 11

(Senators Conway and Dyson)

Education, Health, and Environmental Affairs

Economic Matters

Business Regulation - Returnable Containers - Plastic Secondary Packaging

This bill prohibits anyone other than a manufacturer of “plastic secondary packaging.” from purchasing four or more units of these items for the purpose of recycling, shredding, or destroying them. It also requires purchasers of plastic secondary packaging to make a written record of each transaction involving four or more of these items.

Fiscal Summary

State Effect: The criminal penalty provision of this bill is not expected to significantly affect State finances or operations.

Local Effect: None.

Small Business Effect: Potential meaningful for businesses that use plastic secondary packaging as well as recyclers, shredders, and others who purchase plastic secondary packaging.

Analysis

Bill Summary: The bill defines “plastic secondary packaging” as a plastic crate or shell used for bulk transportation, storage, or carrying of retail items, including milk crates and bakery or soft drink trays. A purchaser of four or more units of plastic secondary packaging must verify the seller’s identity and lawful possession, and record a description of the units purchased and the date of the transaction. The records must be retained for one year and must include the name and address of the purchaser and the registration number and license tag number of any vehicle used in the delivery of the

plastic secondary packaging. A person who violates these provisions is guilty of a misdemeanor and subject to a fine of \$100.

Current Law: A person may register a class of returnable containers 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.

Improper use, damage, or improper transfer of a registered returnable container as well as defacing the identifying marks on a registered container are subject to misdemeanor penalties. 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.

Background: Units of plastic secondary packaging are typically constructed of high-density polyethylene, which yields approximately 8¢ per pound from recyclers. According to the International Dairy Foods Association (IDFA), distributors pay about \$4 for each new milk crate they purchase. IDFA estimates that about 20 million milk crates are stolen annually in the United States; replacing the stolen milk crates costs dairy producers roughly \$80 million to \$100 million per year.

In November 2009, five people in Prince George's County were arrested and charged with stealing large amounts of plastic pallets and crates used to transport bottled soft drinks, baked goods, and dairy products. According to *The Washington Post*, the alleged thefts cost local businesses nearly \$10 million.

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 to maintain records of these transactions. Similar legislation has been considered in Massachusetts.

Small Business Effect: Recycling businesses that commonly purchase large amounts of plastic secondary packaging are banned from purchasing more than three units of plastic secondary packaging and processing it for resale. Small businesses that use plastic secondary packaging, such as dairy distributors and bakeries, may benefit from fewer thefts and an increased ability to prosecute when thefts occur.

Additional Information

Prior Introductions: SB 46 of 2009, a similar bill, passed the Senate and was heard by the House Economic Matters Committee. No further action was taken. SB 494 of 2008, another similar bill, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

Cross File: HB 1276 (Delegate Niemann) – Economic Matters.

Information Source(s): International Dairy Foods Association, Secretary of State, *The Washington Post*, Department of Legislative Services

Fiscal Note History: First Reader - January 19, 2010
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