PLASTIC BULK MERCHANDISE CONTAINER ACT

Act 186 of 2012

AN ACT to regulate the purchase and sale of certain plastic bulk merchandise containers; to require disclosures and record keeping by dealers of plastic bulk merchandise containers; and to provide for penalties and remedies.

History: 2012, Act 186, Eff. Dec. 18, 2012

The People of the State of Michigan enact:

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445.2071 Short title.

Sec. 1.

This act shall be known and may be cited as the "plastic bulk merchandise container act".

History: 2012, Act 186, Eff. Dec. 18, 2012

445.2073 Definitions.

Sec. 3.

As used in this act:

(a) "Dealer" means a person, including, but not limited to, a person that operates a business as a plastics recycler, processor, or shredder or reseller, that purchases plastic bulk merchandise containers from any seller other than the manufacturer of the bulk merchandise containers or an authorized dealer or distributor of those containers.

(b) "Documentation" means a signed statement that indicates where a person obtained a plastic bulk merchandise container offered for sale, indicates that a person is authorized to sell a plastic bulk merchandise container, or provides other evidence that reasonably demonstrates ownership of a plastic bulk merchandise container offered for sale and the source of the container.

(c) "Industrial or commercial account" means a person that sells plastic or plastic articles to a dealer from a fixed location pursuant to a written agreement with that dealer.

(d) "Person" means an individual, partnership, corporation, limited liability company, or other legal entity.

(e) "Plastic bulk merchandise container" means a plastic pallet, crate, container, or shell used by a producer, distributor, or retailer for the bulk transportation or storage of goods for sale at retail, including, but not limited to, food or beverages.

(f) "Record" means a paper, electronic, or other generally accepted method of storing information in a retrievable form.

(g) "Seller" means a person that sells, barters, or trades a plastic bulk merchandise container to a dealer.

History: 2012, Act 186, Eff. Dec. 18, 2012

445.2075 Plastic bulk merchandise container transaction; duties of dealer; sale by individual.

Sec. 5.

(1) A dealer that purchases 10 or more plastic bulk merchandise containers from a person in a single transaction shall do all of the following:

(a) Pay the seller of that container by check or with a similar financial instrument. A dealer may not purchase 10 or more plastic bulk merchandise containers for cash in a single transaction or as part of a barter or other similar trade transaction.

(b) Verify that the seller is at least 16 years of age.

(2) An individual shall not sell a plastic bulk merchandise container to a dealer unless he or she does all of the following at the time of sale:

(a) Presents to the dealer an operator's or chauffeur's license, military identification card, Michigan identification card, passport, or other government-issued identification document that includes a photograph and allows the dealer to make a photocopy or electronic copy of that document.

(b) Executes a written statement that certifies that the seller owns or is otherwise authorized to sell the plastic bulk merchandise container to the dealer and that the seller has not been convicted of a crime involving the theft, conversion, or sale of bulk plastic merchandise containers.

History: 2012, Act 186, Eff. Dec. 18, 2012

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445.2077 Record; preparation; retention; information to be included; exception to certain requirements.

Sec. 7.

(1) Subject to subsection (3), a dealer must prepare an accurate and legible record of each purchase of 10 or more plastic bulk merchandise containers from a person in a single transaction. The record shall include the information described in subsection (2). A dealer shall retain a record prepared under this section for at least 1 year; shall keep all of the records prepared under this section in a location that is readily accessible to a local, state, or federal law enforcement agency for inspection during normal business hours; and shall make the records or copies of those records available to any local, state, or federal law enforcement agency that reasonably suspects that a violation of this act has occurred.

(2) A record of a purchase transaction described in subsection (1) shall contain all of the following information:

(a) The name, address, and identifying number from the seller's identification document described in section 5(2)(a) or a legible scan or photocopy of that identification document. If a dealer engages in more than 1 transaction with a seller, the purchaser may retain the information described in this subdivision for that seller in a separate file and use the information in that file for future transactions.

(b) The date and time of the transaction.

(c) The quantity of plastic bulk merchandise containers purchased.

(d) A description of the plastic bulk merchandise containers and any identifying information shown on the containers.

(e) The amount paid for the plastic bulk merchandise containers and the method of payment.

(f) A signed statement from the seller that the seller is the owner of the plastic bulk merchandise containers or is otherwise authorized to sell the containers to the dealer.

(g) A thumbprint of the seller.

(3) A dealer is not required to prepare and retain a record of a purchase of 10 or more plastic bulk merchandise containers from a person in a single transaction if all of the following are met:

(a) The dealer has an industrial or commercial account with the seller; payments made by the dealer on the account are made by check or similar financial instrument; and those payments are made directly to the seller.

(b) The personal and business identifying information of the seller described in subsection (2)(a) is on file with the dealer, and at least every 2 years, the dealer periodically reviews the information and determines that the information is current and correct.

History: 2012, Act 186, Eff. Dec. 18, 2012

445.2079 Tagging and holding plastic bulk merchandise container.

Sec. 9.

(1) A dealer shall tag and hold a plastic bulk merchandise container purchased from a seller for at least 7 days if any of the following are met:

(a) The plastic bulk merchandise container has altered or obliterated serial numbers, and the person that delivers the plastic bulk merchandise container does not have a written receipt or documentation for the container.

(b) There is identifying information shown on the plastic bulk merchandise container; because of that information, the dealer knows or reasonably should know that the plastic bulk merchandise container is or was the property of a specific business; and the person delivering the plastic bulk merchandise container does not have a written receipt or documentation for the container.

(c) The plastic bulk merchandise container is subject to a notification or bulletin from any law enforcement agency that the dealer received before the purchase of the plastic bulk merchandise container.

(2) Section 7 applies to a purchase of a plastic bulk merchandise container that is subject to subsection (1).

(3) Subsection (1) does not apply to a dealer's purchase of a plastic bulk merchandise container from another dealer if that other dealer complied with subsection (1) concerning that container.

(4) If subsection (1) did not apply to the initial purchase of a plastic bulk merchandise container by a dealer, subsection (1) does not apply to the resale of that container by the dealer to another dealer.

History: 2012, Act 186, Eff. Dec. 18, 2012

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445.2081 Violation; misdemeanor; felony; penalty.

Sec. 11.

(1) If a dealer violates section 7(1) or section 9 and knows or has reason to know that it is violating that section, the dealer is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(2) If a person buys or sells 10 or more plastic bulk merchandise containers from a person in a single transaction and knows or has reason to know that they are stolen, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both, for a first offense and is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00, or both, for a second or subsequent offense.

History: 2012, Act 186, Eff. Dec. 18, 2012

445.2083 Violation; civil infraction; fine.

Sec. 13.

If an action of a person violates this act and the person knows or has reason to know that the action violates this act, the person is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $5,000.00.

History: 2012, Act 186, Eff. Dec. 18, 2012

445.2085 Monetary damages; treble damages; costs; "value of the plastic bulk merchandise containers stolen" defined.

Sec. 15.

(1) A person may bring an action in a court of competent jurisdiction for monetary damages suffered from a

violation of this act by a seller or a dealer. If the violation involves the theft of 10 or more plastic bulk merchandise containers, the court shall award treble damages for the value of the stolen plastic bulk merchandise containers.

(2) The court may award costs regarding any aspect of an action brought under subsection (1).

(3) As used in this section, "value of the plastic bulk merchandise containers stolen" means the highest of the following:

(a) The replacement cost of the stolen plastic bulk merchandise containers.

(b) The cost of repairing the damage caused by the theft of the plastic bulk merchandise containers.

(c) The total of subdivisions (a) and (b).

History: 2012, Act 186, Eff. Dec. 18, 2012

445.2087 Remedies; exemption or release of person from certain requirements prohibited.

Sec. 17.

(1) The remedies under this act are cumulative and do not affect the ability or right of any person to bring any action under this or any other civil, criminal, or regulatory act or ordinance that is otherwise not prohibited by law.

(2) This act does not exempt or release any person from the following:

(a) Obtaining and maintaining a license under any other statute or ordinance.

(b) Complying with the requirements of any other statute or ordinance.

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