

BUSINESS AND COMMERCE CODE  
TITLE 6. SALE OR TRANSFER OF GOODS  
CHAPTER 204. SALE OF RETURNABLE CONTAINER

Sec. 204.001. DEFINITIONS. In this chapter:

(1) "Proof of ownership" includes a bill of sale or other evidence showing that an item has been sold to the person possessing the item.

(2) "Returnable container" means a device made of any material that is used to hold, contain, or convert goods into a package and is suitable for repeated use. The term includes baskets, trays, or other containers used by a product producer, distributor, or retailer for the transportation or storage of goods.

Added by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 4.005(a), eff. September 1, 2009.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 927 (H.B. 4584), Sec. 2, eff. September 1, 2019.

Sec. 204.002. REQUIREMENTS APPLICABLE TO SALE OF RETURNABLE CONTAINER. (a) A person who is in the business of recycling, shredding, or destroying returnable containers, before purchasing five or more returnable containers from the same person, shall:

(1) obtain from that person:

(A) proof of ownership for the containers; and

(B) a record that contains:

(i) the name, address, and telephone number of the person or the person's authorized representative;

(ii) the name and address of the buyer of the containers or any consignee of the containers;

(iii) a description of the containers, including the number of the containers to be sold; and

(iv) the date of the transaction; and

(2) verify:

(A) the identity of the individual selling the containers or representing the seller from a driver's license or

other government-issued identification card that includes the individual's photograph, and record the verification; or

(B) in a manner determined by the purchaser that the individual is acting on behalf of a corporation, business, government, or governmental subdivision or agency.

(b) A person shall retain a record obtained or made under this chapter until the first anniversary of the later of the date the containers are purchased or delivered.

(c) A person who is in the business of recycling, shredding, or destroying returnable containers and who purchases a returnable container from an individual, unless the person verifies in a manner determined by the purchaser that the individual is acting on behalf of a corporation, business, government, or governmental subdivision or agency:

(1) may not pay for the purchase of any returnable container with cash; and

(2) shall, for each transaction in which the person purchases one or more returnable containers, record the method of payment used to purchase the containers.

(d) A record made under Subsection (c)(2) shall be attached to a record made or obtained under Subsection (a) if a record is required under that subsection.

(e) A person who violates Subsection (a) or (b) is liable to this state for a civil penalty of \$10,000 for each violation.

(f) A person who violates Subsection (c) is liable to this state for a civil penalty in an amount not to exceed \$5,000 for each violation. Each cash transaction made in violation of Subsection (c)(1) is a separate violation for purposes of imposing a penalty under this subsection. In determining the amount of the civil penalty imposed under this subsection, the court shall consider the amount necessary to deter future violations.

Added by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 4.005(a), eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 584 (S.B. 875), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 927 (H.B. 4584), Sec. 3, eff.

September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 927 (H.B. 4584), Sec. 4, eff. September 1, 2019.

Sec. 204.003. USE OF ARTIFICE TO AVOID APPLICABILITY OF CHAPTER PROHIBITED. (a) A person who is in the business of recycling, shredding, or destroying returnable containers may not use an artifice to avoid the application of Section 204.002, including documenting purchases from the same person on the same day as multiple transactions.

(b) A person who violates this section is liable to this state for a civil penalty of \$30,000 for each violation.

Added by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 4.005(a), eff. September 1, 2009.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 927 (H.B. 4584), Sec. 5, eff. September 1, 2019.

Sec. 204.004. INVESTIGATIVE AND ENFORCEMENT AUTHORITY.

(a) The attorney general or appropriate prosecuting attorney may:

(1) inspect a record retained by a person under Section 204.002;

(2) investigate an alleged violation of this chapter; and

(3) sue to collect a civil penalty under this chapter.

(b) The attorney general or appropriate prosecuting attorney may recover reasonable expenses, including court costs, attorney's fees, investigative costs, witness fees, and deposition expenses, incurred in recovering a civil penalty under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 4.005(a), eff. September 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 430 (H.B. 2128), Sec. 2, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 584 (S.B. 875), Sec. 2, eff. September 1, 2013.

Sec. 204.005. CRIMINAL PENALTY. (a) A person who is in the business of recycling, shredding, or destroying returnable containers who violates this chapter commits an offense.

(b) Except as provided by Subsection (c), an offense under this section is a Class C misdemeanor punishable by:

(1) a fine not to exceed \$350, if the total purchase price of the returnable containers to which the offense relates is less than \$1,000; or

(2) a fine not to exceed \$700, if the total purchase price of the returnable containers to which the offense relates is \$1,000 or more.

(c) If it is shown on the trial of an offense under this section that the defendant has been previously convicted of an offense under this section based on the same type of violation, the offense is punishable by a fine not to exceed twice the maximum amount of the fine prescribed for a first offense under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 4.005(a), eff. September 1, 2009.

Added by Acts 2009, 81st Leg., R.S., Ch. 912 (H.B. 2127), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 927 (H.B. 4584), Sec. 6, eff. September 1, 2019.