



Ohio Legislative Service Commission

Bill Analysis

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Sub. S.B. 193

129th General Assembly
(As Passed by the Senate)

Sens. Seitz, Patton, Hughes, Bacon, Balderson, Beagle, Brown, Burke, Cafaro, Eklund, Hite, Jones, Kearney, LaRose, Lehner, Manning, Oelslager, Sawyer, Schiavoni, Tavares, Turner, Wagoner

BILL SUMMARY

- Requires every dealer who purchases, resells, exchanges, recycles, shreds or receives more than a specified number of branded bulk merchandise containers at one time to maintain an accurate and complete record of all containers purchased or received for a period of one year.
 - Requires every dealer who resells bulk merchandise containers to take a photograph of each container for which the dealer must make a record and of each person who sells or otherwise gives the dealer the containers.
 - Shortens the period of time a scrap metal dealer must hold records of articles purchased or received from one year to 60 days.
 - Requires scrap metal dealers to take a photograph of each person who sells or otherwise gives the dealer an article.
 - Prohibits a scrap metal dealer or bulk merchandise container dealer from purchasing or receiving an article from a person who refuses to allow the dealer to take the required photograph.
 - Prescribes penalties for failing to take or maintain the required photograph and for purchasing or receiving an article from a person who refuses to have the required photograph taken.
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CONTENT AND OPERATION

Bulk merchandise container transaction requirements

The bill requires every bulk merchandise container dealer (a dealer who is in the business of purchasing, reselling, exchanging, recycling, shredding, or receiving bulk

merchandise containers) who purchases or receives more than four plastic bulk merchandise containers that are marked with a company name or logo or more than nine wooden bulk merchandise containers from any other person at one time to maintain a record book or electronic file that holds an accurate and complete record of all containers purchased or received by the dealer.¹ Those records must be provided to any law enforcement agency upon request.² Entries in the record book must be numbered consecutively and each record must be held for a minimum of one year after the date the bulk merchandise container dealer purchases or receives the container. Each record must contain the name and residence of the person who transferred the containers to the dealer, and a copy of that person's personal identification card. Each record must also contain a description of the containers, including the number purchased or received, the date and time of purchase or receipt, and the license plate number of the motor vehicle the seller or provider of the containers arrived in and the state where the license was issued, if the seller arrived in a vehicle.³

Every dealer who is in the business of reselling bulk merchandise containers must, in addition to the requirements outlined above, take a photograph of each container for which the dealer must make a record at the time of purchase or receipt of the containers and a photograph of the person who sells or otherwise gives the dealer the containers. The photographs must be taken at the time of purchase or receipt of the containers and must be kept as part of the required record for a period of at least one year.⁴

The bill prohibits a bulk merchandise container dealer from purchasing or receiving any bulk merchandise containers from a person who refuses to show the dealer the person's personal identification card. The bill also appears to prohibit the dealer from purchasing or receiving any bulk merchandise containers from a person who refuses to allow the dealer to take a photograph of the person as required, however, the cross-reference identified in the bill (R.C. 4737.012(A)(2)) is not to the requirement that the person's picture be taken (which is R.C. 4737.012(B)(2)), but instead is to the requirement that the dealer keep in the record required under the bill the picture and description of the containers received or purchased.⁵

¹ R.C. 4737.012.

² R.C. 4737.04(D).

³ R.C. 4737.012(A) and (B).

⁴ R.C. 4737.012(B).

⁵ R.C. 4737.04(E).

The bill also requires a bulk merchandise container dealer to comply with the same requirements as scrap metal dealers regarding special purchase articles.⁶ The bill also requires a bulk merchandise container dealer to post a notice in a conspicuous place that notifies any person who may wish to transact business with the dealer of the penalties for (1) providing false personal identification to the dealer, (2) with purpose to defraud, providing any other false information to the dealer, or (3) commits the offense of falsification.⁷

Under the bill, "bulk merchandise container" means a plastic or wooden carrier or holder used by a manufacturer or distributor to transport merchandise to wholesale or retail outlets.⁸

Scrap metal transaction requirements

The bill requires every scrap metal dealer to take a photograph, by any photographic means available, of each person who sells or otherwise gives the dealer an article for which the dealer must make a record under current law.⁹ Under continuing law, a dealer is required to take a photograph of any special purchase articles, which include beer kegs; certain equipment used in providing cable service or any utility service; certain articles that have been or appear to have been obtained from a cemetery; certain metal articles that are purchased and installed for use upon authorization of the state or any political subdivision of the state; historical, commemorative, and memorial markers and plaques made out of metal; grocery carts; and metal bossies.¹⁰

The dealer is required under the bill to take the photograph at the time the dealer purchases or receives the article and is required to keep the photograph as part of the record required under continuing law.¹¹ The bill prohibits the dealer from purchasing or receiving any metal articles from a person who refuses to allow the dealer to take the required photograph of that person.¹²

The bill also shortens the period of time a scrap metal dealer must hold records from one year to 60 days. Current law requires every scrap metal dealer to maintain a record book or electronic file in which the dealer must keep an accurate and complete

⁶ R.C. 4737.012(C) and R.C. 4737.041, not in the bill.

⁷ R.C. 4737.04(F).

⁸ R.C. 4737.012(D).

⁹ R.C. 4737.04(H).

¹⁰ R.C. 4737.01(A)(2) and 4737.041(B), not in the bill.

¹¹ R.C. 4737.04(H).

¹² R.C. 4737.04(E)(1).

record of all articles purchased or received by the dealer in the course of the dealer's daily business. The dealer must maintain the record for each article purchased or received for a minimum period of 60 days under the bill (reduced from one year currently) after the date the dealer purchased or received the article. Under continuing law, the record must contain the name and residence of the person from whom the articles were purchased or received and a copy of that person's personal identification card, as well as other specified information.¹³

Penalties

The bill prescribes the same penalties for scrap metal dealers and bulk merchandise container dealers. If the dealer fails to take or maintain the record of the photograph required by the bill, or if the dealer purchases or receives an article from a person who refuses to allow the dealer to take the required photograph, the dealer is guilty of a third degree misdemeanor. If the dealer previously has violated the photograph requirement one time, if the dealer previously one time has purchased or received articles from a person who refused to allow the dealer to take the required photograph, or if the dealer otherwise failed to comply with or violated other provisions of the law governing scrap metal transactions one time, the dealer is guilty of a second degree misdemeanor. If a dealer previously has violated the photograph requirement two or more times, if the dealer previously two or more times has purchased or received articles from a person who refused to allow the dealer to take the required photograph, or if the dealer otherwise failed to comply with or violated other provisions of that law two or more times, the dealer is guilty of a first degree misdemeanor.¹⁴

HISTORY

ACTION	DATE
Introduced	06-30-11
Reported, S. Insurance, Commerce & Labor	03-14-12
Passed Senate (31-0)	03-14-12

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¹³ R.C. 4737.04(B).

¹⁴ R.C. 4737.99(C).

