

FIRST REGULAR SESSION

# HOUSE BILL NO. 749

101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SHAUL.

1696H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to the sale of returnable containers, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be known as section 407.317, to read as follows:

**407.317. 1. As used in this section, the following terms mean:**

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

(2) **"Recycler", a person who is in the business of recycling, shredding, or destroying returnable containers;**

(3) **"Returnable container", a device made of any material that is used to hold, contain, or convert goods into a package and is suitable for repeated use. "Returnable container" includes, but is not limited to, baskets, trays, or other containers used by a product producer, distributor, or retailer for the transportation or storage of goods.**

**2. (1) Before a recycler purchases five or more returnable containers from the same person, the recycler shall obtain from the person selling the containers:**

**(a) Proof of ownership for the containers; and**

**(b) A record that contains:**

**a. The name, address, and telephone number of the seller or the seller's authorized representative;**

**b. The name and address of the buyer of the containers or any consignee of the containers;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 18           **c. A description of the containers with the number of the containers to be sold; and**  
19           **d. The date of the transaction.**

20           **(2) Before a recycler purchases five or more returnable containers from the same**  
21 **person, the recycler shall:**

22           **(a) Verify the identity of the person selling the containers or representing the seller**  
23 **from a driver's license or other government-issued identification that includes the person's**  
24 **photograph, and record the verification; or**

25           **(b) In a manner determined by the recycler, verify that the person is acting on**  
26 **behalf of a corporation, business, government, or governmental subdivision or agency.**

27           **(3) A recycler shall retain a record obtained or made under this section until the**  
28 **first anniversary of the later of the dates the containers are purchased or delivered.**

29           **(4) (a) a. A recycler who purchases a returnable container from a person shall not**  
30 **pay for the purchase of any returnable container with cash unless the recycler verifies, in**  
31 **a manner determined by the recycler, that the person is acting on behalf of a corporation,**  
32 **business, government, or governmental subdivision or agency.**

33           **b. The recycler shall, for each transaction in which the recycler purchases one or**  
34 **more returnable containers, record the method of payment used to purchase the**  
35 **containers.**

36           **(b) A record made under paragraph (a) of this subdivision shall be attached to a**  
37 **record made or obtained under subdivision (1) of this subsection if a record is required**  
38 **under subdivision (1) of this subsection.**

39           **(c) a. A person who violates paragraph (a) of this subdivision shall be liable for a**  
40 **civil penalty not to exceed five thousand dollars for each violation.**

41           **b. Each cash transaction made in violation of subparagraph a. of paragraph (a) of**  
42 **this subdivision is a separate violation for purposes of imposing a penalty under this**  
43 **paragraph. In determining the amount of the civil penalty imposed under this paragraph,**  
44 **the court shall consider the amount necessary to deter future violations.**

45           **(5) A person who violates subdivisions (1) to (3) of this subsection is liable for a civil**  
46 **penalty of ten thousand dollars for each violation.**

47           **3. A recycler shall not employ any artifice to avoid the application of subsection 2**  
48 **of this section, including documenting purchases from the same person on the same day**  
49 **as multiple transactions. A recycler who violates this subsection is liable for a civil penalty**  
50 **of thirty thousand dollars for each violation.**

51           **4. (1) The attorney general or appropriate prosecuting attorney may:**

52           **(a) Inspect a record retained by a person under subsection 2 of this section;**

53           **(b) Investigate an alleged violation of this section; and**

54 (c) Sue to collect a civil penalty under this section.

55 (2) The attorney general or appropriate prosecuting attorney may recover  
56 reasonable expenses including, but not limited to, court costs, attorney's fees, investigative  
57 costs, witness fees, and deposition expenses incurred in recovering a civil penalty under this  
58 subsection.

59 5. In addition to the civil penalties provided for violations of this section, a recycler  
60 who violates this section is guilty of a class C misdemeanor.

61 (1) If the total purchase price of the returnable containers to which the violation  
62 relates is less than one thousand dollars, the fine imposed under this subsection shall not  
63 exceed three hundred fifty dollars, except as provided by subdivision (3) of this subsection.

64 (2) If the total purchase price of the returnable containers to which the violation  
65 relates is one thousand dollars or more, the fine imposed under this subsection shall not  
66 exceed seven hundred dollars, except as provided in subdivision (3) of this subsection.

67 (3) If the defendant has been previously convicted of a violation of this section  
68 based on the same type of violation, the fine imposed under this subsection shall not exceed  
69 twice the maximum amount of the fine imposed under this subsection for a first violation  
70 of this section.

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