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AB-1760 Bulk merchandise pallets. (2021-2022)

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Assembly Bill No. 1760

CHAPTER 521

An act to amend Section 21609.7 of the Business and Professions Code, relating to secondhand goods.

[Approved by Governor September 25, 2022. Filed with Secretary of State September 25, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1760, Rodriguez. Bulk merchandise pallets.

Existing law authorizes junk dealers and recyclers, as defined, to sell and purchase junk, which includes secondhand and used furniture, pallets, or other personal property, as specified. Existing law prohibits junk dealers and recyclers from purchasing or receiving bulk merchandise pallets marked with an indicia of ownership from anyone except the indicated owner, unless specified information is provided to the junk dealer or recycler, and requires the junk dealer or recycler to maintain a written record of that information. Existing law makes a violation of these recordkeeping requirements a misdemeanor.

This bill would revise the above provisions on bulk merchandise pallets to apply only to the purchase of bulk merchandise pallets marked with an indicia of ownership and would delete the provisions on receiving the bulk merchandise pallets, as described above. The bill would provide that those provisions do not prohibit a junk dealer or recycler from acquiring good faith possession of merchandise pallets based on the representations of the seller that the indicated owner cannot be located or has failed to retrieve the merchandise pallets on a timely basis. The bill would require a junk dealer or recycler who acquires good faith possession of merchandise pallets, if the indicated owner can be located, to give notice of good faith possession to the owner of those pallets. If, within 35 calendar days after the junk dealer or recycler notifies the indicated owner of having acquired good faith possession, the indicated owner demands a return of the pallets, the bill would permit a junk dealer or recycler to require payment of reasonable storage fees. The bill would provide that after 35 calendar days from when the junk dealer or recycler provides notice of good faith possession to the indicated owner, the owner is deemed to have relinquished possession of the merchandise pallets, and would permit the junk dealer or recycler to either sell the pallets or charge reasonable storage fees if the indicated owner demands a return and the pallets are still in the possession of the junk dealer or recycler.

This bill would require the seller to retain a copy of the notice of good faith possession for at least 2 years, and would require the notice to contain specified information, including the name and contact information of the junk dealer or recycler that acquired good faith possession of the merchandise pallets. The bill would require the notice of good faith possession to be sent by mail or email to the indicated owner at their physical or email address, if known. By expanding the scope of a crime regarding the recordkeeping requirements of junk dealers and recyclers, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 21609.7 of the Business and Professions Code is amended to read:

21609.7. (a) Except as provided in subdivisions (b) and (d), a junk dealer or recycler shall not purchase bulk merchandise pallets marked with an indicia of ownership from any person or entity other than the indicated owner.

(b) (1) If the seller is not the indicated owner, a junk dealer or recycler may purchase bulk merchandise pallets if the seller provides one of the following:

(A) A receipt from the indicated owner verifying the seller's current ownership.

(B) A document indicating that the seller is authorized by the indicated owner to sell the merchandise pallets.

(2) Copies of these documents shall be maintained by the junk dealer or recycler as part of the written record of the transaction.

(c) For a single purchase transaction involving five or more bulk merchandise pallets marked with indicia of ownership where the seller is not the indicated owner, the junk dealer or recycler shall make payment only by a check mailed to the address shown on the driver's license or other government-issued photo identification provided by the seller or by cash or check collected by the seller on or after the third business day following the date of the transaction.

(d) Nothing in this section prohibits a junk dealer or recycler from acquiring good faith possession of merchandise pallets based on the representations of the seller that the indicated owner cannot be located or has failed to retrieve the merchandise pallets on a timely basis. If the indicated owner can be located, a junk dealer or recycler who acquires good faith possession shall give notice of good faith possession to the indicated owner of the merchandise pallets. The seller shall retain a copy of this notice of good faith possession for at least two years. A junk dealer or recycler who acquires good faith possession may require payment of reasonable storage fees for the merchandise pallets if the indicated owner demands a return within 35 calendar days after the junk dealer or recycler notifies the indicated owner of having acquired good faith possession. After 35 calendar days from when the junk dealer or recycler provides notice of good faith possession to the indicated owner, the owner shall be deemed to have relinquished possession of the merchandise pallets, at which time the junk dealer or recycler may either sell the pallets or charge reasonable storage fees if the indicated owner demands a return and the pallets are still in the possession of the junk dealer or recycler.

(1) The notice of good faith possession shall contain all of the following information:

(A) The date of the good faith possession.

(B) The name and contact information of the junk dealer or recycler that has acquired good faith possession of the merchandise pallets.

(C) The location of where the merchandise pallets are held.

(D) The number of merchandise pallets acquired.

(E) The date on or after which the merchandise pallets will be deemed relinquished to the junk dealer or recycler.

(2) The notice of good faith possession shall be sent by mail or email to the indicated owner at the indicated owner's physical or email address, if known.

(e) For purposes of this section, the following definitions apply:

(1) "Bulk merchandise pallets" means plastic or wood containers, carriers, or holders used by a manufacturer or distributor for bulk transport of merchandise to wholesale or retail outlets.

(2) "Indicia of ownership" means words, symbols, or registered trademarks printed, stamped, etched, attached, or otherwise displayed on the exterior surface of the merchandise pallet that reasonably identifies the owner.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.