

1998
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Ms Tucker)

Shopping Containers Bill 1998

A BILL

FOR

An Act relating to shopping containers

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

1. Short title

5 This Act may be cited as the *Shopping Containers Act 1998*.

2. Commencement

(1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

10 (2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act

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is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period

3. Interpretation

In this Act, unless the contrary intention appears—

5 “customer” means a person to whom, in the Territory, a retailer—

- (a) sells goods by retail; or
 - (b) provides goods on hire by retail;
- and includes an agent of a customer;

“goods” includes—

- 10
- (a) beverages;
 - (b) food; and
 - (c) substances;

“inspector” means a person appointed under subsection 7 (1) of the *Trade Measurement (Administration) Act 1991*;

15 “retailer” means a person who, in the course of a business carried on by him or her in the Territory—

- (a) sells goods by retail; or
- (b) provides goods on hire by retail;

“sell” includes barter and exchange;

20 “shopping container” means—

- (a) a bag or box made wholly or partially from plastic material suitable for storing or carrying goods bought from, or provided on hire by, a retailer; or
- (b) a bag or box declared to be a shopping container by an instrument under section 7;

25 other than a bag or box in which goods are packaged as part of the process of packaging the goods for sale.

PART II—SALE OF SHOPPING CONTAINERS

4. Shopping containers not to be given away

30 A retailer shall not give for no payment a shopping container to a person who is or has been a customer of the retailer.

Penalty:

- (a) in the case of natural person—100 penalty units;
- (b) in the case of a body corporate—500 penalty units.

5. Price of shopping containers to be advertised

(1) A retailer shall not sell a shopping containers unless—

- 5 (a) he or she displays in a prominent place at or near each point of sale in his or her premises a sign or notice that is clearly visible to intending customers and notifies them of the price, being not less than the specified price, at which the retailer intends to sell the shopping container; and
- (b) the shopping container is sold at the price shown on the sign or notice.

10 Penalty:

- (a) in the case of natural person—100 penalty units;
- (b) in case of a body corporate—500 penalty units.

(2) In this section—

15 “specified price”, in relation to a shopping container sold or available to be sold by a retailer, means the price at which the retailer has bought the container rounded up to the next higher cent.

6. Receipt to be given for purchase of shopping containers

(1) A retailer who has sold 1 or more shopping container shall give to the purchaser, on completion of the purchase, a receipt that shows—

- 20 (a) the number of containers sold; and
- (b) the price at which each container has been sold.

Penalty:

- (a) in the case of natural person—100 penalty units;
- (b) in the case of a body corporate—500 penalty units.

25 (2) Subsection (1) is satisfied if the information required to be shown by that subsection in a receipt is shown in a receipt given in respect of other purchases made by the person to whom the shopping containers have been sold.

PART III—MISCELLANEOUS

30 **7. Power of Minister to declare containers**

(1) The Minister may, by instrument, declare that a bag or box of a kind specified in the instrument is a shopping container for the purposes of this Act.

35 (2) An instrument under subsection (1) and any instrument revoking, amending or affecting such an instrument, are disallowable instruments for the purposes of section 10 of the *Subordinate Laws Act 1989*.

(3) In subsection (1) the reference to a bag or box shall be read as a reference to a bag or box that is suitable for storing or carrying goods bought from, or provided on hire by, a retailer.

8. Powers of entry

5 (1) Subject to this section, for the purpose of ensuring compliance with this Act, an inspector may—

- (a) enter and inspect any premises in which it appears that a retailer carries on business;
- 10 (b) examine or test the working, and require the retailer or any person apparently employed by the retailer to demonstrate to the inspector the operation of, any cash register, computer or other means for recording sales or issuing receipts to customers,
- 15 (c) require the retailer or any person apparently employed by the retailer to answer questions, or produce invoices and accounting and other records under the retailer's control, relating to the purchase, sale or any other dealing with shopping containers, including producing a print-out of any information stored in a computer; and
- 20 (d) make copies, including photographic copies, of any document, printout, sign or notice that appears to the inspector to be related to dealing with shopping containers.

(2) An inspector may not carry out a function under this section in a retailer's premises at times when the premises are not open for business.

25 (3) An inspector who enters any premises in pursuance of this section is not authorised to remain on the premises if, on request by or on behalf of the occupier of the premises, he or she does not produce his or her certificate of authority issued under the *Trade Measurement (Administration) Act 1991*

(4) In this section—

30 "premises" includes a place and land, whether or not any structure is erected in the place or on the land.

9. Obstruction etc. of inspector

A person shall not, without reasonable excuse—

- (a) hinder or obstruct an inspector in the exercise of a function under section 8; or
- 35 (b) fail to comply with a requirement of an inspector under section 8

Penalty. 100 penalty units.

10. Conduct of directors, servants and agents

(1) Conduct engaged in on behalf of a body corporate or a natural person by a director, servant or agent of the body, or a servant or agent of the person, within the scope of his or her actual or apparent authority is to be taken, for the purposes of this Act, to have been engaged in also by the body or person unless the body or person establishes that reasonable precautions were taken and due diligence was exercised to avoid the conduct.

(2) A reference in this section to a director of a body corporate is to be read as including a reference to a member of a body corporate incorporated for a public purpose by a law of the Territory, the Commonwealth, a State or another Territory.

(3) A reference in this section to engaging in conduct shall be read as including a reference to failing or refusing to engage in conduct.

NOTE

Penalty units

See section 33AA of the *Interpretation Act 1967*.