



HOUSE BILL No. 4578

March 31, 1993, Introduced by Reps. Brackenridge, Griffin, Randall, Palamara, Kaza, Gustafson, Bullard, Harder, Gernaat, Shugars, Dobronski, Shepich, Kukuk, Porreca, Voorhees, Whyman, Hammerstrom, DeLange, Jaye, Middleton, McManus, Horton, Cropsey, DeMars, Byrum and Bender and referred to the Committee on Business and Finance.

A bill to amend sections 1, 3, and 10a of Act No. 449 of the Public Acts of 1976, entitled

"An act to regulate the pricing of consumer items and the advertising of consumer items, services, goods, merchandise, commodities, and real property; to prescribe the powers and duties of certain state and local officials in relation thereto; to provide remedies and penalties; and to repeal certain acts and parts of acts,"

section 10a as added by Act No. 344 of the Public Acts of 1984, being sections 445.351, 445.353, and 445.360a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1, 3, and 10a of Act No. 449 of the
2 Public Acts of 1976, section 10a as added by Act No. 344 of the
3 Public Acts of 1984, being sections 445.351, 445.353, and
4 445.360a of the Michigan Compiled Laws, are amended to read as
5 follows:

1 Sec. 1. As used in this act:

2 (a) "Advertising" means all representations disseminated in
3 any manner by any means for the purpose of inducing, or which are
4 likely to induce, directly or indirectly, the purchase of a con-
5 sumer item, service, good, merchandise, commodity, or real
6 property.

7 (b) "Automatic checkout system" means an electronic device,
8 computer, or machine ~~which~~ THAT determines the price of a con-
9 sumer item by using a product identity code ~~—~~ and may, but is
10 not required to, include an optical scanner.

11 (c) "Class of item" means a group of consumer items ~~which~~
12 THAT may vary by brand, style, pattern, color, or size other than
13 weight or volume. Items within a class must otherwise be identi-
14 cal and offered at the same total price.

15 (d) "Consumer item" means an article of tangible personal
16 property used or consumed, or bought for use or consumption, pri-
17 marily for personal, family, or household purposes.

18 (e) "Director" means the director of the department of agri-
19 culture or his OR HER authorized representative.

20 (f) "Person" means an individual, firm, partnership, corpo-
21 ration, association, GOVERNMENTAL ENTITY, or other legal entity.

22 (g) "Sale at retail" means the transfer of an interest in a
23 consumer item by a person regularly and principally engaged in
24 the business of selling consumer items to a buyer for use or con-
25 sumption and not for resale.

1 (h) "Total price" means the full purchase price of a
2 consumer item, excluding GROUP OR MEMBERSHIP FEES, sales tax,
3 ~~and~~ OR container deposit.

4 Sec. 3. (1) The total price of a consumer item displayed or
5 offered for sale at retail shall be clearly and conspicuously
6 indicated in arabic numerals, so as to be readable and under-
7 standable by visual inspection, and ~~shall be~~ stamped upon or
8 affixed to the consumer item. If the consumer item is in a pack-
9 age or container, the total price shall be stamped upon or
10 affixed to the outside surface of the package or container and
11 need not be placed directly upon the consumer item.

12 (2) The requirements of subsection (1) ~~shall~~ DO not apply
13 to ANY OF THE FOLLOWING:

14 (a) A consumer item sold by weight or volume ~~which~~ THAT is
15 not in a package or container.

16 (b) A consumer item sold in a coin operated vending
17 machine.

18 (c) Prepared food intended for immediate consumption, as
19 defined in section 4g of THE GENERAL SALES TAX ACT, Act No. 167
20 of the Public Acts of 1933, being section 205.54g of the Michigan
21 Compiled Laws.

22 (d) A consumer item purchased by mail or through catalog
23 order, or which is not otherwise visible for inspection by the
24 consumer at the time of the sale, and which is ordered or
25 requested by the consumer, if the price of the item is on the
26 consumer's written order or request or on a bill, invoice, or

1 other notice ~~which~~ THAT describes or names the item and ~~which~~
2 is enclosed with the item.

3 (e) An unpackaged food item.

4 (f) A consumer item ~~which~~ THAT has a total weight of not
5 more than 3 ounces, a total volume of not more than 3 cubic
6 inches, and a total price of not more than 30 cents.

7 (g) Live plants.

8 (h) Live animals.

9 (i) Motor vehicles.

10 (j) Motor vehicle parts.

11 (k) Packages of 20 or fewer cigarettes.

12 (l) Greeting cards sold individually ~~which~~ THAT have a
13 readable coded price on the back of the card.

14 (m) Merchandise ordered as a gift by a consumer ~~which~~ THAT
15 is sent by mail or other delivery service to a person other than
16 the consumer by the retailer at the request of the consumer.

17 ~~(3) In addition to the exemptions allowed in subsection~~
18 ~~(2), a retailer may choose to not individually price mark not~~
19 ~~more than 25 classes of items or individual items which classes~~
20 ~~or items shall be listed and posted in a conspicuous place in the~~
21 ~~retail store, and may choose to not individually price mark not~~
22 ~~more than 25 additional classes of items or individual items~~
23 ~~which are advertised or featured at a reduced price.~~

24 ~~(4) The price and the name or description of a class of~~
25 ~~items or individual items not marked pursuant to subsection (3)~~
26 ~~shall be indicated by a clear, readable, and conspicuous sign in~~

1 ~~immediate conjunction with the area in which the unmarked item or~~
2 ~~class of items is displayed.~~

3 ~~(5) As used in subsections (3) and (4), "item", except as~~
4 ~~otherwise provided in this subsection, means + or more identical~~
5 ~~articles, sold in identical quantities or measures. An item may~~
6 ~~include more than + product, brand, kind, size, or type of pack-~~
7 ~~aging, if they are packaged together and sold as a set and the~~
8 ~~sets are identical in all respects, including quantity or~~
9 ~~measure.~~

10 (3) A RETAILER MAY CHOOSE NOT TO INDIVIDUALLY PRICE MARK
11 CONSUMER ITEMS IF THE PRICE AND DESCRIPTION OF THE CONSUMER ITEMS
12 ARE CLEARLY AND CONSPICUOUSLY INDICATED IN LETTERS AND ARABIC
13 NUMERALS ON A SIGN OR TAG THAT IS ATTACHED FIRMLY TO AND IS IMME-
14 DIATELY ADJACENT TO THE AREA WHERE THE UNMARKED ITEM OR ITEMS ARE
15 DISPLAYED.

16 Sec. 10a. (1) Except as provided in subsection (3), this
17 section applies to a sale at retail ~~which~~ THAT meets all of the
18 following conditions:

19 (a) There is a price stamped on or affixed to the item OR
20 THE PRICE AND DESCRIPTION OF THE CONSUMER ITEM IS CLEARLY AND
21 CONSPICUOUSLY INDICATED IN LETTERS AND ARABIC NUMERALS ON A SIGN
22 OR TAG THAT IS ATTACHED FIRMLY TO AND IS IMMEDIATELY ADJACENT TO
23 THE AREA WHERE THE UNMARKED ITEM OR ITEMS ARE DISPLAYED.

24 (b) The sale is recorded by an automatic checkout system.

25 (c) The buyer is given a receipt ~~which~~ THAT describes the
26 item and states the price charged for the item.

1 (2) Before bringing or joining in an action as provided in
2 section 10(2), within 30 days after purchasing an item, a buyer
3 who suffers loss because the price charged for the item is more
4 than the price ~~stamped on or affixed to the item~~ INDICATED AS
5 REQUIRED BY SECTION 3 shall notify the seller in person or in
6 writing that the price charged is more than the price ~~stamped or~~
7 ~~affixed~~ INDICATED AS REQUIRED BY SECTION 3. The notice shall
8 include evidence of the loss suffered by the buyer. If, within 2
9 days after the notification, the seller tenders to the buyer an
10 amount equal to the difference between the price ~~stamped or~~
11 ~~affixed~~ INDICATED AS REQUIRED BY SECTION 3 and the price
12 charged, plus an amount equal to 10 times that difference but
13 which is not less than \$1.00 or more than \$5.00, the buyer is
14 barred from any further recovery for that loss. If the loss is
15 suffered by 1 buyer within 1 transaction on 2 or more identical
16 items, the amount to be tendered by the seller shall be the dif-
17 ference on each item, plus an amount equal to 10 times the dif-
18 ference on a single item but which is not less than \$1.00 and not
19 more than \$5.00. If the seller does not tender this amount, the
20 buyer may bring or join in an action as provided in section
21 10(2).

22 (3) This section does not apply to a sale at retail in which
23 the seller intentionally charges more for an item than the price
24 stamped on or affixed to the item.