

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

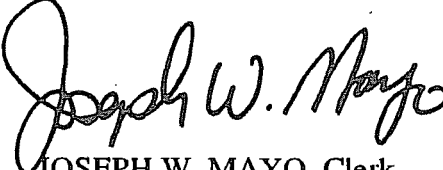
No. 1786

H.P. 1324

House of Representatives, January 25, 1994

An Act to Prevent Overcharging on Merchandise.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Business Legislation suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative MICHAEL of Auburn.
Cosponsored by Representative COFFMAN of Old Town and
Representative: HATCH of Skowhegan.

2 Be it enacted by the People of the State of Maine as follows:

4 Sec. 1. 7 MRSA c. 101, sub-c. VII is enacted to read:

6 SUBCHAPTER VII

8 UNIT PRICING OF CONSUMER COMMODITIES

10 §530-A. Definitions

12 As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

14 1. Automatic checkout system. "Automatic checkout system" means an electronic device, computer or machine that determines the price of a consumer item by using a product identity code and includes an automated optical scanner.

18 2. Consumer commodity. "Consumer commodity," except as specifically provided by this subchapter, means any food, as defined by the Maine Food Law, and any other article, product or commodity of any kind or class that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and that usually is consumed or expended in the course of that consumption or use.

20 3. Sale at retail. "Sale at retail" means the transfer of an interest in a consumer item by a person regularly and principally engaged in the business of selling consumer commodities to a buyer for use or consumption and not for resale.

24 4. Total price. "Total price" means the full purchase price of the consumer commodity without regard to units of weight, measure or count, excluding sales tax and container deposit.

28 §530-B. Item price marking

30 The total price of consumer commodities offered for sale at retail must be clearly, conspicuously and plainly displayed in Arabic numerals, so price is readable and understandable by visual inspection and must be stamped upon or affixed directly upon each individual consumer commodity. If a consumer commodity is canned, bottled, boxed or bagged, but is sold in quantities of more than one in the containers in which the product came from the manufacturer or distributor, the price may be marked on the outer containers rather than on each individual item. The items

2 may include single pieces of bubble gum, penny candy, single
4 cigars and similar items as long as the basic intended protection
6 of the consumer under this subchapter is not jeopardized.

8 **§530-C. Exceptions**

10 This subchapter does not apply to the following:

12 1. Federal pricing law. Consumer commodities subject to
14 the packaging or labeling requirements of the Federal Alcohol
16 Administration Act of 1935, 27 United States Code, Sections 201,
18 et seq. (1988) or to the pricing requirements of federal law;

20 2. Vending machines. Goods offered for sale through a
22 vending machine;

24 3. Prescriptions. Goods sold only by prescription;

26 4. Prepared foods for immediate consumption. Prepared
28 foods intended for immediate consumption from fast-food
30 restaurants and similar establishments;

32 5. Mail purchases. A consumer item purchased by mail
34 through a catalog order or that is not otherwise visible for
36 inspection by the consumer at the time of sale and that is
38 ordered or requested by the consumer, if the price of the item is
40 on the consumer's written order or request or on a bill, invoice
42 or other notice that describes or names the item and that is
44 enclosed with the item;

46 6. Live animals. Live animals;

48 7. Greeting cards. Greeting cards sold individually that
50 have a readable price on the back of the card;

8. Magazines. Magazines sold with a sale price visibly
printed on the cover at the time of printing; and

9. Gifts. Merchandise ordered as a gift by a consumer that
is sent by mail or other delivery service to a person other than
the consumer by the retailer at the request of the consumer.

§530-D. Evidence of violation

1. Prima facie evidence of violation. It is prima facie
evidence that a retailer violates this subchapter if the retailer
using an automatic check-out system:

A. Fails to comply with section 530-B; or

2 B. Charges or attempts to charge a price exceeding the
4 price indicated as required under section 530-B.

6 2. Each violation a separate offense. Each violation with
8 respect to a particular consumer commodity on a single day is a
10 separate violation.

12 §530-E. Forfeitures

14 A person who violates this subchapter commits a civil
16 violation for which a forfeiture of not more than \$100 for the
18 first violation and not more than \$500 for each subsequent
20 violation may be adjudged. Each violation with respect to a
22 particular consumer commodity on any single day is a separate
24 violation.

26 **STATEMENT OF FACT**

28 The purpose of this bill is to require that each individual
30 consumer good sold must carry a notation of the price of that
32 individual item. This enables the consumer to tell the price of
the item even though the store is using a computer-readable
pricing code and prevents overcharging.

This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.