

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 507

H. P. 445

House of Representatives, January 29, 1981

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Cunningham of New Gloucester.

Cosponsor: Representative Michael of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Require Individually Marked Prices on Certain Retail Merchandise.

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

10 MRSA c. 212 is enacted to read:

CHAPTER 212

UNIT PRICING OF CONSUMER COMMODITIES

§ 1371. Definitions

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

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

2. **Consumer commodity.** "Consumer commodity" means any food, drug, device or cosmetic and other article, product or commodity of any other kind or class, which are produced for sale to retail agencies or instrumentalities for consumption by individuals, for use by individuals for personal care or in the performances of services ordinarily rendered in or around the household and

which are usually consumed in the course of the consumption or use. "Consumer commodity" does not include the shelf, carton or crate in which the commodities were received at the retail establishment.

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.

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.

§ 1372. Item price marking

The total price of consumer commodities offered for sale at retail shall be clearly, conspicuously and plainly displayed in Arabic numerals, so as to be readable and understandable by visual inspection and shall 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. Such items may include simple pieces of bubble gum, penny candy, single cigars and similar items but not to the distortion of the basic intended protection of this chapter to the consumer.

§ 1373. Exceptions

The provisions of this chapter do not apply to the following:

1. Federal pricing law. Consumer commodities subject to the packaging or labeling requirements of the Federal Alcohol Administration or to any pricing requirements by federal law;

2. Vending machines. An item of goods offered for sale through a vending machine;

3. Prescriptions. An item of goods sold only by prescription;

4. Prepared foods for immediate consumption. Prepared foods intended for immediate consumption such as fast food restaurants and like establishments;

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

6. Live animals. Live animals;

7. Greeting cards. Greeting cards sold individually which have a readable coded price on the back of the card;

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

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

§ 1374. Evidence of violation

1. **Prima facie evidence of violation.** It is prima facie evidence:

A. Of a violation of this chapter, if any retailer using an automatic checkout system or magnetic scanning of the Universal Product Code system for checkout fails to comply with section 1372; or

B. Of a violation of section 1372, if a price charged or attempted to be charged as a result of electronic identification or calculation by an automatic checkout system exceeds the price required to be indicated pursuant to section 1372.

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

§ 1375. Forfeitures

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

STATEMENT OF FACT

The purpose of this bill is to require that each individual consumer good sold must carry a notation of the price of that individual item. This will enable the consumer to tell the price of the item even though the store is using a computer readable pricing code.