

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 723

H.P. 539 House of Representatives, March 11, 1987
Reference to the Committee on Business Legislation
suggested and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative GWADOSKY of Fairfield.
Cosponsored by Representatives McHENRY of Madawaska,
RACINE of Biddeford, and SHELTRA of Biddeford. (By Request)

STATE OF MAINE

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

AN ACT to Maintain Itemized Pricing.

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 indi-
cates otherwise, the following terms have the follow-
ing meanings.

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

6 2. Consumer commodity. "Consumer commodity"
7 means any food, drug, device or cosmetic and other
8 article, product or commodity of any other kind or
9 class, which is produced for sale to retail agencies
10 or instrumentalities for consumption by individuals,
11 for use by individuals for personal care or in the
12 performances of services ordinarily rendered in or
13 around the household and which is usually consumed in
14 the course of the use. Consumer commodity does not
15 include the shelf, carton or crate in which the com-
16 modities were received at the retail establishment.

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

22 4. Total price. "Total price" means the full
23 purchase price of the consumer commodity without re-
24 gard to units of weight, measure or count, excluding
25 sales tax and container deposit.

26 §1372. Item price marking

27 The total price of consumer commodities offered
28 for sale at retail shall be clearly, conspicuously
29 and plainly displayed in Arabic numerals, so as to be
30 readable and understandable by visual inspection and
31 shall be stamped upon or affixed directly upon each
32 consumer commodity. If a consumer commodity is
33 canned, bottled, boxed or bagged, but is sold in
34 quantities of more than one in the containers in
35 which the product came from the manufacturer or dis-
36 tributor, the price may be marked on the outer con-
37 tainers rather than on each item. Those items may
38 include single pieces of bubble gum, penny candy, ci-
39 gars and similar items, but not to the distortion of
40 the basic intended protection of this chapter to the
41 consumer.

1 §1373. Exceptions

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

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

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

10 3. Prescription. An item of goods sold only by
11 prescription;

12 4. Prepared foods for immediate consumption.
13 Prepared foods intended for immediate consumption,
14 such as fast food restaurants and like establish-
15 ments;

16 5. Mail purchases. A consumer item purchased by
17 mail through a catalog order or which is not other-
18 wise visible for inspection by the consumer at the
19 time of the sale and which is ordered or requested by
20 the consumer, if the price of the item is on the con-
21 sumer's written order or request or on a bill, in-
22 voice or other notice which describes or names the
23 item and which is enclosed with the item;

24 6. Live animals. Live animals;

25 7. Greeting cards. Greeting cards sold indi-
26 vidually which have a readable coded price on the
27 back of the card;

28 8. Magazines. Magazines sold with a sale price
29 visually printed on the cover at the time of print-
30 ing;

31 9. Gifts. Merchandise ordered as a gift by a
32 consumer which is sent by mail or other delivery ser-
33 vice to a person other than the consumer by the re-
34 tailer at the request of the consumer;

35 10. Frozen foods. Frozen foods;

1 11. Items not usually priced. Classes of items
2 which, on the effective date of this chapter, are not
3 customarily individually priced, such as baby food;
4 and

5 12. Sales. Special sales displays which have
6 their own large price sign for a quantity of items.

7 §1374. Evidence of violation

8 1. Burden of proof. A violation is established
9 only upon showing that the retailer intentionally re-
10 fused to price the item in compliance with this chap-
11 ter or failed to make a timely correction after no-
12 tice.

13 2. Each violation a separate offense. Each vio-
14 lation with respect to a particular consumer commodi-
15 ty on any single day is a separate violation.

16 §1375. Forfeitures

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

23 STATEMENT OF FACT

24 The purpose of this bill is to require that each
25 individual consumer item sold must carry a notation
26 of the price of that individual item. This will en-
27 able the consumer to tell the price of the item even
28 though the store is using a computer readable pricing
29 code. Some types of goods are excluded, which either
30 are priced by the manufacturer for each item or the
31 items are custom items, specifically requested by a
32 customer.

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