

# SENATE BILL No. 1211

March 20, 2002, Introduced by Senator EMMONS and referred to the Committee on Farming,  
Agribusiness and Food Systems.

A bill to amend 1976 PA 449, 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,"

by amending sections 1 and 3 (MCL 445.351 and 445.353).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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~~  
4 THAT are likely to induce, directly or indirectly, the purchase  
5 of a consumer item, service, good, merchandise, commodity, or  
6 real property.

7       (b) "Automatic checkout system" means an electronic device,  
8 computer, or machine ~~which~~ THAT determines the price of a

1 consumer item by using a product identity code, and may but is  
2 not required to include an optical scanner.

3 (c) "Class of item" means a group of consumer items ~~which~~  
4 THAT may vary by brand, style, pattern, color, or size other than  
5 weight or volume. ~~Items within a class must otherwise be iden-~~  
6 ~~tical and offered at the same total price.~~

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

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

12 (F) "ELECTRONIC SHELF LABELING SYSTEM" MEANS AN ELECTRONIC  
13 SYSTEM THAT UTILIZES AN ELECTRONIC DEVICE ATTACHED TO A SHELF OR  
14 OTHER POINT OF SALE, IMMEDIATELY ABOVE OR BELOW A CONSUMER ITEM,  
15 THAT CLEARLY AND CONSPICUOUSLY DISPLAYS TO THE CONSUMER THE UNIT  
16 PRICE AND TOTAL PRICE OF THE CONSUMER ITEM IN ARABIC NUMBERS.

17 (G) ~~(f)~~ "Person" means an individual, firm, partnership,  
18 corporation, association, or other legal entity.

19 (H) ~~(g)~~ "Sale at retail" means the transfer of an interest  
20 in a consumer item by a person regularly and principally engaged  
21 in the business of selling consumer items to a buyer for use or  
22 consumption and not for resale.

23 (I) ~~(h)~~ "Total price" means the full purchase price of a  
24 consumer item, excluding sales tax and container deposit.

25 Sec. 3. (1) ~~The~~ A PERSON SHALL CLEARLY AND CONSPICUOUSLY  
26 INDICATE THE total price of a consumer item displayed or offered  
27 for sale at retail ~~shall be clearly and conspicuously indicated~~

1 in ~~arabic~~ ARABIC numerals. ~~, so as to be~~ THE TOTAL PRICE MUST  
2 BE readable and understandable by visual inspection ~~, and~~  
3 ~~shall be~~ stamped upon or affixed to the consumer item. If the  
4 consumer item is in a package or container, the total price  
5 ~~shall~~ MUST be stamped upon or affixed to the outside surface of  
6 the package or container and need not be placed directly upon the  
7 consumer item.

8 (2) ~~The requirements of subsection~~ SUBSECTION (1) ~~shall~~  
9 DOES not apply to:

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

12 (b) A consumer item sold in a coin operated vending  
13 machine.

14 (c) Prepared food intended for immediate consumption, as  
15 defined in section 4g of ~~Act No. 167 of the Public Acts of 1933,~~  
16 ~~being section 205.54g of the Michigan Compiled Laws~~ THE GENERAL  
17 SALES TAX ACT, 1933 PA 167, MCL 205.54G.

18 (d) A consumer item purchased by mail or through catalog  
19 order, or ~~which~~ THAT is not otherwise visible for inspection by  
20 the consumer at the time of the sale, and ~~which~~ THAT is ordered  
21 or requested by the consumer, if the price of the CONSUMER item  
22 is on the consumer's written order or request or on a bill,  
23 invoice, or other notice ~~which~~ THAT describes or names the  
24 CONSUMER item and ~~which~~ is enclosed with the CONSUMER item.

25 (e) An unpackaged food item.

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

4 (g) Live plants.

5 (h) Live animals.

6 (i) Motor vehicles.

7 (j) Motor vehicle parts.

8 (k) Packages of 20 or fewer cigarettes.

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

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

14 (N) A CONSUMER ITEM, IF THE RETAILER USES AN ELECTRONIC  
15 SHELF LABELING SYSTEM FOR THAT ITEM.

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

24 (4) ~~The~~ IF THE price and the name or description of a  
25 class of items or individual items ARE not PRICE marked pursuant  
26 to subsection (3), ~~shall be indicated~~ THE RETAILER SHALL  
27 INDICATE THE PRICE AND THE NAME OR DESCRIPTION OF THE CLASS OF

1 ITEMS OR INDIVIDUAL ITEMS by POSTING a clear, readable, and  
2 conspicuous sign in immediate conjunction with the area in which  
3 the unmarked item or class of items is displayed.

4 (5) As used in subsections (3) and (4), "item", except as  
5 otherwise provided in this subsection, means 1 or more identical  
6 articles ~~—~~ sold in identical quantities or measures. An item  
7 may include more than 1 product, brand, kind, size, or type of  
8 packaging, if they are packaged together and sold as a set and  
9 the sets are identical in all respects, including quantity or  
10 measure.