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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 289

Session of  
1981

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INTRODUCED BY D. R. WRIGHT, WILT AND STEWART, JANUARY 27, 1981

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JANUARY 27, 1981

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AN ACT

1 Requiring item pricing to appear on certain consumer  
2 commodities; imposing powers and duties on the Bureau of  
3 Consumer Protection and providing penalties.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the "Item Pricing  
8 Law."

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have, unless the context clearly indicates otherwise, the  
12 meanings given to them in this section:

13 "Automatic checkout system." An electronic device, computer  
14 or machine which determines the price of a consumer item by  
15 using a product identity code and shall include an automated  
16 optical scanner.

17 "Consumer commodity." Any food, drug, device or cosmetic and  
18 other article, product or commodity of any other kind or class,

1 which are customarily produced for sale to retail agencies or  
2 instrumentalities for consumption by individuals, for use by  
3 individuals for personal care or in the performances of services  
4 ordinarily rendered in or around the household and which are  
5 usually consumed in the course of such consumption or use. The  
6 term "consumer commodity" shall not be construed to include the  
7 shelf, carton or crate in which the commodities were received at  
8 the retail establishment.

9 "Sale at retail." The transfer of an interest in a consumer  
10 item by a person regularly and principally engaged in the  
11 business of selling consumer commodities to a buyer for use or  
12 consumption and not for resale.

13 "Total price." The full purchase price of the consumer  
14 commodity without regards to units of weight, measure or count,  
15 excluding sales tax and container deposit.

#### 16 Section 3. Item price marking.

17 The total price of consumer commodities offered for sale at  
18 retail shall be clearly, conspicuously and plainly displayed in  
19 arabic numerals, so as to be readable and understandable by  
20 visual inspection and shall be stamped upon or affixed directly  
21 upon each individual consumer commodity as close as possible to  
22 the product identity code. If a consumer commodity is canned,  
23 bottled, boxed or bagged, but sold in quantities of more than  
24 one in the containers in which the product came from the  
25 manufacturer or distributor, the price may be marked on the  
26 outer containers rather than on each individual items; such  
27 items could include single pieces of bubble gum, penny candy,  
28 single cigars and similar items but not to the distortion of the  
29 basic intended protection of this proposal to the consumer.

#### 30 Section 4. Exceptions.

1 The provisions of this act shall not apply to:

2 (1) Consumer commodities subject to the packaging or  
3 labeling requirements of the Federal Alcohol Administration  
4 or to any pricing requirements by Federal law.

5 (2) An item of goods offered for sale through a vending  
6 machine.

7 (3) An item of goods sold only by prescription.

8 (4) Prepared foods intended for immediate consumption  
9 such as fast food restaurants and like establishments.

10 (5) A consumer item purchased by mail through a catalog  
11 order, or which is not otherwise visible for inspection by  
12 the consumer at the time of the sale and which is ordered or  
13 requested by the consumer, if the price of the item is on the  
14 consumer's written order or request, or on a bill, invoice,  
15 or other notice which describes or names the item and which  
16 is enclosed with the item.

17 (6) Live animals.

18 (7) Greeting cards sold individually which have a  
19 readable coded price on the back of the card.

20 (8) Magazines sold with a sale price visually printed on  
21 the cover at the time of printing.

22 (9) Merchandise ordered as a gift by a consumer which is  
23 sent by mail or other delivery service to a person other than  
24 the consumer by the retailer at the request of the consumer.

25 Section 5. Evidence of violation.

26 (a) It shall be prima facie evidence of a violation of this  
27 act if any retailer using an automatic checkout system or  
28 magnetic scanning of the Universal Product Code system for  
29 checkout fails to comply with section 2.

30 (b) It shall be prima facie evidence of a violation of

1 section 2 if a price charged or attempted to be charged as a  
2 result of electronic identification or calculation by an  
3 automatic checkout system exceeds the price required to be  
4 indicated pursuant to section 2.

5 (c) Each violation with respect to a particular consumer  
6 commodity on any single day shall be deemed a separate offense.  
7 Section 6. Remedies.

8 Any person who violates any provisions of this act commits a  
9 summary offense and shall upon conviction be fined not more than  
10 \$100 for the first offense nor more than \$500 for each  
11 subsequent offense. Each violation with respect to a particular  
12 consumer commodity on any single day shall be deemed a separate  
13 offense.

14 Section 7. Rules and regulations.

15 The Director of the Bureau of Consumer Protection in the  
16 Office of Attorney General shall promulgate such rules and  
17 regulations as are necessary to carry out the purposes of this  
18 act.

19 Section 8. Effective date.

20 This act shall take effect in 90 days.