

7. Michigan's New Scanner Law

The 2011 Shopping Reform and Modernization Act

After putting the groceries in the trunk of her car, Marianna sat down in the driver's seat to take a closer look at the sales receipt. She noticed that she paid 89 cents each for two cans of corn instead of the sale price of 69 cents. She distinctly recalls seeing the shelf tag that displayed 69 cents. Marianna went back into the store and at the service desk received a refund of 20 cents on each can of corn, AND she got an additional amount of ten times the difference on one can of corn. The total she received was \$2.40.

Effective September 1, 2011, Michigan's Item Pricing Act was replaced by the Shopping Reform and Modernization Act ("Scanner Law"). While the new Scanner Law retains many provisions of the former Pricing and Advertising of Consumer Items Act ("Item Pricing Act"), the most fundamental change is that retailers are required to display the price of items offered for sale in the store at the place where the item is located, but are no longer required to individually mark the price on the item itself.

Mandatory item pricing has been replaced by some form of price display. Items on store shelves are no longer required to have individual price tags on them. Instead, prices of items in a store must be "displayed", which can be by a shelf sign, electronic reader, individual price tag, or any other method that:

- (1) **clearly and reasonably** shows the price of the item on the shelf to consumers when in the store;
- (2) **at the place where the item is located.**

The same small list of items that were exempt from item pricing under the old law are still exempt from the new price display requirement (items sold in vending machines, live plants, unpackaged food, motor vehicle parts, animals, and others).

What is a clear and reasonable price display? The new law does not define or state how a price must be displayed to satisfy the requirement that it "clearly and reasonably" conveys price information. The only express mandate in the new law relates to placement: the price must be clearly conveyed to a consumer in the store at the place where the item is located. A common sense meaning of "clearly and reasonably" would require the price to be displayed in such size, color, contrast, and location that a reasonable person would readily notice and understand.

Report a store's failure to properly display the price of an item by contacting:

The Department of Agriculture and Rural Development
Weights & Measures Section
940 Venture Lane
Williamston, MI 48895
Phone: 1-517-655-8202

If the price of an item on the shelf is not apparent to you, it probably isn't apparent to other shoppers either.

The Department of Agriculture and Rural Development is responsible for investigating whether the store has violated the law by failing to properly display prices. Violations of the law are punishable by a fine of not more than \$1,000 for the first violation, and \$5,000 for the second and any subsequent violation. The Attorney General has enforcement authority to file a lawsuit against a seller for violations of the law.

The new law provides for penalties in the same manner as the old law. **If an automatic checkout system (scanner) charges you more than the displayed price of an item, and:**

- 1) the transaction has been completed, and
- 2) you have a receipt indicating the item purchased and the price charged for it.

Then:

You must notify the seller that you were overcharged, within 30 days of the transaction, either in person or in writing. Within two days of receiving your notice, the seller may choose to refund you the difference between the amount charged and the price displayed plus a "bonus" of ten times the difference, with a minimum of \$1.00 and a maximum of \$5.00. If the seller refuses to give you both the refund and the bonus, you may bring a lawsuit to recover your actual damages or \$250.00, whichever is greater, plus reasonable attorney fees up to \$300.00. If you purchase several identical items at once and were overcharged on each, you may collect the bonus only once, but you are entitled to the refund of the difference for each identical item.

Additional information regarding the law is available in the Attorney General's consumer alert "Michigan's New Scanner Law, the 2011 Shopping Reform and Modernization Act." The alert and a wallet size "Scanner Error Bill of Rights" card are available on the Attorney General's website (www.michigan.gov/ag) or by calling the Consumer Protection Division, 1-877-765-8388.