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A program of Elder Law of Michigan, Inc*

## ***Item Pricing Rules***

Michigan's item pricing law, also known as the price scanner law, makes sure that the prices marked on retail goods can be read by the consumer, as well as the computer. The law also protects against advertising abuses and requires rain checks in certain cases. This pamphlet will cover the scanner part of the law.

This law was passed because computerized checkout systems, which are now the most common checkout method, rely on a code of vertical bars and numbers, (known as the Universal Product Code – UPC) to record the price of goods. The price, brand name, etc. are put into the computer. The price is read by the scanner and charged to the client electronically. Because the scanner, instead of the clerk, reads the price at checkout, stores do not need to mark each item individually to conduct business. The scanner law requires that, with some exceptions, a customer readable price still be attached to an item so you can compare prices and check for accuracy at checkout.

### **What items are *NOT* covered by the law?**

The law does not apply to goods sold by weight or volume; prepared food intended to be immediately eaten, unpackaged items; live plants and animals; car parts; greeting cards and small items (less than 3 oz.) sold for not more than 30 cents.

In addition, a seller can choose to exempt up to 25 items which would otherwise be covered from item pricing. If the seller does use this limited

exception, the list of exempt items must be posted with the prices in a conspicuous place near the unmarked items.

### **What does the law require?**

Sellers are required to put the price on any item sold for retail. The price must be in 'regular' numbers, not just in barcode. Failing to do so is a violation of the act, enforceable by the Michigan Department of Agriculture.

### **What if I'm Overcharged?**

The Michigan item pricing law requires that you be refunded the amount overcharged. The seller's failure to refund your money is grounds for you to sue in small claims court for \$250. The law has a special penalty if you are overcharged because the seller used a scanner.

### **What are the penalties if I'm overcharged by a scanner?**

In addition to the overcharge refund, you are to be paid a penalty by the seller. The penalty is between \$1.00 and \$5.00, depending on how much you were overcharged.

### **How is the scanner penalty calculated?**

The penalty is 10 times the overcharge, with a minimum penalty of one dollar and a maximum penalty of five dollars. You are to get the penalty in addition to the overcharge refund.

Some examples:

1. You were charged \$.99 for an item marked \$.97

The overcharge is \$.02

Penalty is  $$.02 \times 10 = $.20$  Because this is less than the minimum penalty, the \$1.00 minimum applies. The seller should give you \$1.02 (The overcharge plus penalty).

2. You were charged \$.85 for an item marked \$.15

The overcharge is \$.70

The penalty is  $\$.70 \times 10 = \$7.00$  Because this is more than the \$5.00 maximum penalty, the \$5.00 maximum applies. The seller should give you \$5.70 (The overcharge plus penalty).

3. You were charged \$.75 for an item marked \$.60

The overcharge is \$.15

The penalty is  $\$.15 \times 10 = \$1.50$

The seller should give you \$1.65 (the overcharge plus penalty).

4. You bought 6 cans of soup. You were charged \$.95 for each one, although they were marked \$.80.

**You are entitled to all the overcharged refund and the penalty which is based on one item.**

The overcharge is  $\$.15 \times 6 = \$.90$

The penalty is  $\$.15 \times 10 + \$1.50$ . The seller should give you \$2.40 ( $\$.90 + \$1.50$ ).

If the seller refuses to give you the penalty amount, you may go to court to collect the \$250 damage award set by law, plus up to \$300 in attorney fees.

**What do I need to prove a scanner overcharge?**

You need 1) a sale by scanner, 2) a price marked on the item, and 3) the sales receipt describing the item and showing a different price.

If the sale was not made while using a scanner, the seller is violating the act by overcharging, but the penalty provision does not apply. You must go to court for damage as state in Question 3.

**When can I claim the penalty?**

**You have up to 30 days after the purchase. You do not need to leave the store and come back. You do not need to wait 48 hours to**

**make your claim. (The seller can, however, take up to 48 hour to pay the penalty on the refund).**

**What if I am overcharged because the new sale price was not marked on the item and the scanner charged the presale price?**

For example, the soup is marked \$.95 on the can, but the store is advertising a special of \$.85 a can. The scanner prices the can at \$.95. In this case, you have been overcharged, and are entitled to a refund of \$.10. You are also entitled to take the store to court for the \$250 damage award *if* the store's sale item did not meet the special rules about listing and posting prices conspicuously (described above). However, because the (wrongly) marked price and the scanner price were the same, the scanner penalty does not apply. This result is caused by an odd glitch in the law's language.

**If you want to report continual scanner violations, instead of suing myself, where do I go?**

You can call the Michigan Department of Agriculture Quality, Weights and Measures Program (517) 655-8202, or the Michigan Attorney General's Office (517) 373-1140. If the store is in Detroit, you can also call the City's Consumer Affairs Department (313) 224-6995.

The addresses to write to these offices are:

Michigan Department of Agriculture  
611 W. Ottawa  
PO Box 30017  
Lansing, MI 48909

Michigan Attorney General  
Consumer Protection Division  
525 W. Ottawa, 6<sup>th</sup> Floor  
PO Box 30213  
Lansing, MI 48909

Consumer Affairs Department  
1600 Cadillac Tower  
Detroit, MI 48226

*If you are a senior, you can get specific questions answered at the Legal Hotline for Michigan Seniors. Call **1-800-347-5297** (**372-5959** for the Lansing area).*

*The Legal Hotline is a program of Elder Law of Michigan, Inc., a non-profit organization. If you would like to support our work, please consider sending a tax deductible donation to the Legal Hotline, 3815 W Saint Joseph St, Ste C-200 Lansing, MI 48917. Thank you.*