

AMENDED IN ASSEMBLY APRIL 22, 1999

AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 659

Introduced by Assembly Member Wiggins

February 23, 1999

An act to add Section 12032 to the Business and Professions Code, relating to weights and measures.

LEGISLATIVE COUNSEL'S DIGEST

AB 659, as amended, Wiggins. Point of sale stations.

(1) Existing law authorizes the Secretary of Food and Agriculture to adopt rules and regulations regarding the accuracy of automated systems for retail commodity price charging referred to as scanners.

This bill would enact the Retail Price Accuracy Act of 1999. The bill would require a retail establishment to pay a customer a specified amount of money if that establishment operates a point-of-sale station, as defined, and is notified that, as a result of a completed retail sales transaction, a customer was charged a price for an item or commodity that is greater than the advertised, posted, or quoted price, as prescribed *and subject to a specified exception.*

This bill would bar a customer from any further relief if a customer receives the remedy prescribed in this bill, and would allow a customer who does not receive a remedy to bring or join other actions against the retail establishment.

The bill would prohibit a county sealer from issuing a fine or initiating an infraction charge based on a remedy received under this bill. The bill would require until January 1, 2001, and would authorize thereafter, each retail establishment that operates a point-of-sale station to post a sign at the main entrance to the establishment and at each checkout stand that informs the customers of that requirement. The bill would prescribe related matters. Because, under existing law, a violation of these provisions would be a crime, this bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12032 is added to the Business
2 and Professions Code, to read:

3 12032. (a) This section shall be known as and may be
4 cited as the Retail Price Accuracy Act of 1999.

5 (b) If a retail establishment that operates a
6 point-of-sale station is notified that, as a result of a
7 completed retail sales transaction, a customer was
8 charged a price for an item or commodity that is greater
9 than the advertised, posted, or quoted price of that item
10 or commodity, *except advertising errors when the retail*
11 *establishment posts a notice in the store*, the retail
12 establishment shall pay to the customer, *in the same*
13 *tender as the original transaction*, upon notification by
14 the customer of the overcharge, one of the following
15 amounts, as applicable:

16 (1) An amount equal to the difference between the
17 price advertised, posted, or quoted by the establishment
18 and the price charged to the customer, plus an amount



1 equal to 10 times that difference, but which is not less than
2 one dollar (\$1) nor more than ~~ten dollars (\$10)~~ *seven*
3 *dollars and fifty cents (\$7.50)*.

4 (2) If a customer is overcharged on more than one
5 item within a single transaction or on two or more
6 identical items within a single transaction, an amount
7 equal to the difference on each item, plus an amount
8 equal to 10 times the difference on the highest priced
9 overcharged item in the transaction, but which is not less
10 than one dollar (\$1) nor more than ~~ten dollars (\$10)~~
11 *seven dollars and fifty cents (\$7.50)*.

12 (c) For the purposes of this section, notification by a
13 customer of an overcharge means the submission of a
14 verbal or written statement to an employee of a retail
15 establishment not later than ~~30~~ 15 days from the date of
16 the transaction at issue and includes the submission of the
17 original or a copy of the transaction receipt containing
18 the overcharge. *The customer shall also provide proof of*
19 *the price of the item with any document, sign, or label*
20 *that contains the selling price of the item on the date it*
21 *was purchased, including, but not limited to, an*
22 *advertisement, a price tag, a shelf tag, or other sign in the*
23 *store that documents the price of the item. If the selling*
24 *price of the item is still posted or displayed in the store at*
25 *the time of the complaint, the customer need not provide*
26 *the proof of the price of the item described in this*
27 *subdivision.*

28 ~~(d) Each~~

29 (d) *If a customer receives the remedy prescribed in*
30 *this section, the customer is barred from any further*
31 *recovery for that loss. If a remedy is not received, nothing*
32 *in this section prohibits a customer from bringing or*
33 *joining any action against the retail establishment. A*
34 *county sealer is prohibited from issuing a fine or initiating*
35 *an infraction charge against a retail establishment, based*
36 *solely on a retailer issuing the above remedy to a*
37 *customer. Nothing in this subdivision implies a limitation*
38 *of, and shall not be construed to limit, the ability of a*
39 *county sealer to conduct independent inspections.*



1 (e) *Until January 1, 2001, each* retail establishment
2 that operates a ~~point-of-sale~~ *point of sale* station shall post
3 a sign at the main entrance to the establishment and at
4 every ~~checkout stand~~ *checkstand* that informs the
5 customers in plain language of the requirement set forth
6 in subdivision (b). *On and after January 1, 2001, a retail*
7 *establishment may voluntarily choose to continue posting*
8 *any number of signs stating the requirements in*
9 *subdivision (b).* The sign shall be at least six inches in
10 height and at least six inches in width and shall be printed
11 on a clear and contrasting background in type that is
12 21-point size or larger.

13 ~~(e)~~

14 (f) Nothing in this section prevents a retail
15 establishment from establishing a policy that provides for
16 payment to a customer who was charged more for an item
17 or commodity than the price advertised, posted, or
18 quoted in an amount that is greater than that provided for
19 in subdivision (b), if notice of that policy is posted in
20 accordance with subdivision (e).

21 ~~(f)~~

22 (g) For the purposes of this section, “point of sale
23 station” means each individual separate location or
24 checkstand within an establishment at which consumers
25 are charged for commodities using equipment that
26 recovers stored information regarding the selling price of
27 those commodities printed on the product or a label
28 affixed to the product, including, but not limited to, those
29 that use Universal Product Code scanners, price look-up
30 codes, or any other system that relies on the retrieval of
31 electronically stored information to complete a
32 transaction of commerce between a retailer and the
33 ultimate consumer.

34 ~~(g)~~

35 (h) This section is in addition to any other penalty or
36 sanction provided by law, and does not supplant any other
37 provision of law.

38 SEC. 2. No reimbursement is required by this act
39 pursuant to Section 6 of Article XIII B of the California
40 Constitution because the only costs that may be incurred



1 by a local agency or school district will be incurred
2 because this act creates a new crime or infraction,
3 eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section
5 17556 of the Government Code, or changes the definition
6 of a crime within the meaning of Section 6 of Article
7 XIII B of the California Constitution.

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