

AMENDED IN SENATE JUNE 22, 1999
AMENDED IN ASSEMBLY MAY 28, 1999
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 (a) would bar a customer from any further relief if a customer receives the remedy prescribed in this bill, ~~and would~~ (b) would allow a customer who does not receive a remedy to bring or join other actions against the retail establishment. ~~The bill,~~ and (c) would prohibit a county sealer from issuing a fine or initiating an infraction charge based on a remedy received under this bill. *The bill also would specify that a retailer who has paid to a customer the remedy described above shall not be subject to any further civil or criminal penalties or fines based solely on the retailer paying that remedy and would specify that this provision would not prohibit or limit the use of the transaction that resulted in the payment of that remedy in any civil or criminal action.* The bill would require each retail establishment that operates a point-of-sale station to post a sign, at every entrance and exit to the establishment and at each customer service counter, 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



1 than the advertised, posted, or quoted price of that item
2 or commodity, except advertising errors when the retail
3 establishment posts a notice in the store, the retail
4 establishment shall pay to the customer, in the same
5 tender as the original transaction, upon notification by
6 the customer of the overcharge, one of the following
7 amounts, as applicable:

8 (1) An amount equal to the difference between the
9 price advertised, posted, or quoted by the establishment
10 and the price charged to the customer, plus an amount
11 equal to 10 times that difference, but which is not less than
12 one dollar (\$1) nor more than seven dollars and fifty cents
13 (\$7.50).

14 (2) If a customer is overcharged on more than one
15 item within a single transaction or on two or more
16 identical items within a single transaction, an amount
17 equal to the difference on each item, plus an amount
18 equal to 10 times the difference on the highest priced
19 overcharged item in the transaction, but which is not less
20 than one dollar (\$1) nor more than seven dollars and fifty
21 cents (\$7.50).

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

38 (d) (1) If a customer receives the remedy prescribed
39 in this section, the customer is barred from any further
40 recovery for that loss. If a remedy is not received, nothing



1 in this section prohibits a customer from bringing or
2 joining any action against the retail establishment. A
3 county sealer is prohibited from issuing a fine or initiating
4 an infraction charge against a retail establishment, based
5 solely on a retailer issuing the above remedy to a
6 customer. ~~Nothing~~

7 (2) *A retailer who has paid to a customer the remedy*
8 *described in this section shall not be subject to any further*
9 *civil or criminal penalties or fines based solely on the*
10 *retailer paying that remedy. However, this paragraph*
11 *does not prohibit or limit the use of the transaction that*
12 *resulted in the payment of that remedy in any civil or*
13 *criminal action.*

14 (3) *Nothing* in this subdivision implies a limitation of,
15 and shall not be construed to limit, the ability of a county
16 sealer to conduct independent inspections.

17 (e) Each retail establishment that operates a
18 point-of-sale station shall post a sign, at every entrance
19 and exit to the establishment and at each customer
20 service counter, that informs the customers in plain
21 language of the requirement set forth in subdivision (b).
22 The sign shall be at least six inches in height and at least
23 six inches in width and shall be printed on a clear and
24 contrasting background in type that is 21-point size or
25 larger.

26 (f) Nothing in this section prevents a retail
27 establishment from establishing a policy that provides for
28 payment to a customer who was charged more for an item
29 or commodity than the price advertised, posted, or
30 quoted in an amount that is greater than that provided for
31 in subdivision (b), if notice of that policy is posted in
32 accordance with subdivision (e).

33 (g) For the purposes of this section, “point-of-sale
34 station” means each individual separate location or
35 checkstand within an establishment at which consumers
36 are charged for commodities using equipment that
37 recovers stored information regarding the selling price of
38 those commodities printed on the product or a label
39 affixed to the product, including, but not limited to, those
40 that use Universal Product Code scanners, price look-up



1 codes, or any other system that relies on the retrieval of
2 electronically stored information to complete a
3 transaction of commerce between a retailer and the
4 ultimate consumer.

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

8 SEC. 2. No reimbursement is required by this act
9 pursuant to Section 6 of Article XIII B of the California
10 Constitution because the only costs that may be incurred
11 by a local agency or school district will be incurred
12 because this act creates a new crime or infraction,
13 eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section
15 17556 of the Government Code, or changes the definition
16 of a crime within the meaning of Section 6 of Article
17 XIII B of the California Constitution.

