



Senate Fiscal Agency  
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## BILL ANALYSIS



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Senate Bill 1170 (as introduced 12-3-24)  
Sponsor: Senator Sue Shink  
Committee: Natural Resources and Agriculture

Date Completed: 12-9-24

**CONTENT**

**The bill would amend the Shopping Reform and Modernization Act to do the following:**

- **Modify the list of consumer items exempt from the requirement to display the total price of an item at retail at the place of the sale.**
- **Require a consumer item that was sold by weight or volume and was not in a package or container to have the price per weight or price per volume displayed.**
- **Modify how violations of the Act would be penalized to allow the Director of the Department of Agriculture and Rural Development (MDARD) to enter into a consent agreement with a violator for the assessment of a civil fine.**
- **Prescribe civil fines for a first violation and subsequent violations of the Act.**
- **Increase, from \$1,000 to \$5,000, the maximum civil fine that a court could assess for violations of the Act and allow a court to assess the actual costs of investigation and the amount of any economic benefit associated with the violation in addition to the fine.**
- **Require civil fines to be deposited into the General Fund and credited to MDARD for enforcement the Act.**
- **Allow the MDARD Director to regularly inspect a person subject to the Act and prohibit MDARD from charging for an inspection unless the inspection was a reinspection for noncompliance or was performed upon request of a person.**
- **Allow the Director to establish and collect fees and expenses for special services.**

**Requirement to Display Prices**

The Act requires a person to display the total price of a consumer item offered for sale for retail at the place of the retail sale. This provision does not apply to the following:

- A consumer item that is sold by weight or volume and is not in a package or container.
- A consumer item sold in a coin-operated vending machine.
- Prepared food intended for immediate consumption.
- A consumer item purchased by mail or through catalog order, or that is not otherwise visible for inspection by the consumer at the time of the sale, and that is ordered or requested by the consumer, if the price of the consumer item is on the consumer's written order or request or on a bill, invoice, or other notice that describes or names the consumer item and is enclosed with the consumer item.
- An unpackaged food item.
- A consumer item that has a total weight of not more than three ounces, a total volume of up to three cubic inches, and a maximum total price of 30 cents.
- Live plants.
- Live animals.
- Motor vehicles.

- Motor vehicle parts.
- Packages of 20 or fewer cigarettes.
- Greeting cards that are sold individually and have a readable coded price on the back of the card.
- Merchandise that is ordered as a gift by a consumer and is sent by mail or other delivery service to a person other than the consumer by the retailer at the request of the consumer.

Instead, under the bill, the following items would be exempt from the display requirement:

- A consumer item that was sold by weight or volume and was not in a package or container.
- A consumer item purchased by mail or through catalog order, or that was not otherwise visible for inspection by the consumer at the time of the sale, and that was ordered or requested by the consumer, if the price of the consumer item were on the consumer's written order or request or on a bill, invoice, or other notice that described or names the consumer item and was enclosed with the consumer item.
- Motor vehicles.
- Motor vehicle parts that were not accessible to the public for direct retail sale.
- Greeting cards that were sold individually and had a readable coded price on the back of the card.
- Merchandise that was ordered as a gift by a consumer and was sent by mail or other delivery service to a person other than the consumer by the retailer at the consumer's request.

The bill specifies that a consumer item that was sold by weight or volume and was not in a package or container would have to have the price per weight or price per volume displayed.

Currently, "person" means an individual, corporation, limited liability company, partnership, association, or other legal entity. Under the bill, the term also would include a member club. "Member club" would mean any membership-based business or program that has a primary purpose of offering to members products or services and discounts related to areas falling within the primary focus of the business or program.

"Consumer item" means an article of tangible personal property used or consumed, or bought for use or consumption, primarily for personal, family, or household purposes.

### Violations

The Act allows the Attorney General to maintain an action to enjoin a violation of the Act. Generally, if the court determines that a violation has occurred, it will issue an injunction against the defendant. Actual damages do not need to be proven for the court to grant this injunction. The Attorney General must notify the defendant at least 48 hours before seeking the injunction, allowing the defendant time to cease the violation. The Attorney General also may accept a written assurance from the violator to discontinue a violation. Prosecutors or law enforcement officers who become aware of violations must promptly notify the Attorney General. A person who knowingly violates the Act may be ordered to pay a civil fine up to \$1,000 for the first violation and up to \$5,000 for subsequent violations. The bill would delete these provisions.

Instead, if the MDARD Director determined that a person or agent or employee of a person violated the Act or the Act's rules, the Director could enter into a consent agreement with the person for an assessment of a civil fine as follows:

- For a first violation, a civil fine of at least \$150 and up to \$2,500, plus the actual costs of the investigation and the amount of any economic benefit associated with the violation.

- For a second violation that occurred within two years after a first violation, a civil fine of at least \$500 and up to \$5,000, plus the actual costs of the investigation and twice the amount of any economic benefit associated with the violation.
- For a third or subsequent violation that occurred within two years after a first violation, a civil fine of at least \$500 or up to \$10,000 for each violation, plus the actual costs of the investigation and three times the amount of any economic benefit associated with the violation.

The bill would allow the Director to bring a civil action against a person alleged to have violated the Act if the person did not enter into a written consent agreement within 15 days of the agreement being proposed. A court could assess a civil fine of up to \$10,000 for each violation plus the actual costs of the investigation and the amount of any economic benefit associated with the violation.

The Director of MDARD would have to inform the Attorney General of any civil fine not received, and the Attorney General could bring an action in court to recover the fine.

A civil fine and any economic benefits would have to be deposited into the General Fund and credited to MDARD for the enforcement of the Act. In addition to a civil fine, the Director or the Attorney General could bring a civil action in court seeking a temporary or permanent injunction to restrain a person that was engaging in, or was about to engage in, an act or practice that violated the Act or the Act's rules.

### Inspections

The bill would allow the Director of MDARD to regularly inspect a person subject to the Act. A person subject to the Act could not be charged a fee for a regular inspection unless either of the following applied:

- The inspection was a reinspection of a person that was found to be noncompliant with the Act.
- The inspection was performed at the request of the person being inspected.

The Director would have to establish the fees and expenses for special services. Money collected by MDARD for fees and special services would have to be deposited into the General Fund and credited to MDARD for the Act's enforcement.

MCL 445.321 et al.

Legislative Analyst: Eleni Lionas

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.