

HOUSE BILL No. 5562

December 21, 2001, Introduced by Reps. Woodward, Gielegem, Wojno, Spade, Garza, Dennis, Switalski, Jacobs and Hale and referred to the Committee on Commerce.

A bill to amend 1976 PA 449, entitled

"An act to regulate the pricing of consumer items and the advertising of consumer items, services, goods, merchandise, commodities, and real property; to prescribe the powers and duties of certain state and local officials in relation thereto; to provide remedies and penalties; and to repeal certain acts and parts of acts,"

by amending sections 10 and 10a (MCL 445.360 and 445.360a), section 10 as amended and section 10a as added by 1984 PA 344.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10. (1) Whether or not a person seeks damages or has
2 an adequate remedy at law, a person may bring an action to do
3 either or both of the following if the attorney general or prose-
4 cuting attorney fails to initiate action within 60 days after
5 receiving notice of an alleged violation of this act:

6 (a) Obtain a declaratory judgment that a practice is in
7 violation of this act.

1 (b) Enjoin by temporary or permanent injunction a person who
2 is engaging or is about to engage in a practice in violation of
3 this act.

4 (2) Except as provided in section 10a, a person who suffers
5 loss as a result of a violation of this act may bring an individ-
6 ual or a class action to recover actual damages or ~~-\$250.00~~
7 \$500.00, whichever is greater, for each day on which violations
8 of this act have been found together with reasonable ~~attorneys+~~
9 ATTORNEY fees not to exceed ~~-\$300.00~~ \$600.00 in an individual
10 action.

11 Sec. 10a. (1) Except as provided in subsection (3), this
12 section applies to a sale at retail ~~which~~ THAT meets all of the
13 following conditions:

14 (a) There is a price stamped on or affixed to the item.

15 (b) The sale is recorded by an automatic checkout system.

16 (c) The buyer is given a receipt ~~which~~ THAT describes the
17 item and states the price charged for the item.

18 (2) Before bringing or joining in an action as provided in
19 section 10(2), within 30 days after purchasing an item, a buyer
20 who suffers loss because the price charged for the item is more
21 than the price stamped on or affixed to the item shall notify the
22 seller in person or in writing that the price charged is more
23 than the price stamped or affixed. The notice shall include evi-
24 dence of the loss suffered by the buyer. If, within 2 days after
25 the notification, the seller tenders to the buyer an amount equal
26 to the difference between the price stamped or affixed and the
27 price charged, plus an amount THAT IS equal to ~~-10-~~ 20 times that

1 difference but ~~which~~ THAT is not less than ~~\$1.00~~ \$5.00 or
2 more than ~~\$5.00~~ \$10.00, the buyer is barred from any further
3 recovery for that loss. If the loss is suffered by 1 buyer
4 within 1 transaction on 2 or more identical items, the amount ~~to~~
5 ~~be tendered by the seller shall be~~ the SELLER MUST TENDER TO BAR
6 THE BUYER FROM FURTHER RECOVERY IS THE difference on each item,
7 plus an amount THAT IS equal to ~~10~~ 20 times the difference on a
8 single item but ~~which~~ THAT is not less than ~~\$1.00~~ \$5.00 and
9 not more than ~~\$5.00~~ \$10.00. If the seller does not tender this
10 amount, the buyer may bring or join in an action as provided in
11 section 10(2).

12 (3) This section does not apply to a sale at retail in which
13 the seller intentionally charges more for an item than the price
14 stamped on or affixed to the item.