

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1274
Economic Matters

(Delegate Conaway)

Retail Pricing – Required Disclosure and Manner of Disclosure

This bill requires a retail seller to disclose the raised price of a consumer commodity if the total or unit price is raised. The raised price must be disclosed consistent with existing requirements of State law. As under current law, a violation of an order of the Office of the Attorney General (OAG) or an agreement of a party relating to unit pricing is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA’s civil and criminal penalty provisions.

Fiscal Summary

State Effect: The bill’s imposition of existing penalty provisions does not have a material impact on State finances or operations. OAG, Consumer Protection Division, can handle the bill’s requirements with existing resources.

Local Effect: The bill’s imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law: A “unit price” means the retail price of an item expressed in dollars and cents per unit. In addition to any units commonly used in the United States, specified units may be used as appropriate (*e.g.*, per pound, kilogram, meter, *etc.*).

A “consumer commodity” means any food, drug, cosmetic, or other article, product, or commodity of any kind or class which is:

- customarily produced for sale at retail for consumption by individuals for purposes of personal care (or in the performance of services ordinarily performed in or around the household); and
- usually consumed or expended in the course of that use or performance (other than by wear or deterioration from use).

Required Disclosures

Generally, each person who sells (or offers or displays for sale) a consumer commodity at retail must disclose the total price of the commodity or the unit price of the consumer commodity if (1) it is sold only by units or (2) it is a prepackaged or retail-packaged consumer commodity within specified categories of products. If a packaged consumer commodity is priced for a multiple-package purchase, the seller must disclose the unit price of the commodity on the basis of the multiple package. However, a person is *not* required to disclose the unit price of the consumer commodity if the individual is then disclosing unit prices for 90% or more of the dollar volume (or number of items) of all the consumer commodities which are subject to disclosure requirements.

Manner of Disclosures

The seller must disclose the total price or unit price for each item in the following manner:

- if the item is visible conspicuously to the consumer, by attachment of a stamp, tag, or label (1) directly on the item or its package or (2) directly adjacent to the item or on the shelf on which the item is displayed; or
- if the item is not visible conspicuously to the consumer or if the stamp, tag, or label would not be visible conspicuously to the consumer, by a sign (or list), which contains the price information and is visible conspicuously to the consumer.

Maryland Consumer Protection Act

If OAG has reason to believe that a sales agency has violated any provision related to unit pricing (or any related rule or regulation), OAG may institute a proceeding under MCPA.

An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind, which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or

deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2021
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