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Public Hearing Summary

05/04/2011 10:00 AM B-1

Item Pricing Legislation

Note: All testimony in support of eliminating individual item pricing testified on HB987 & SB1844, the versions of the bill crafted by House Chair Linda Dorcena Forny. All opposition test in reference to all bills.

Testified in Support

- Chris Flynn, President, Mass. Food Association ([Hide Testimony](#))

It's time to get some relief for our businesses. We have gone out of our way to give protections and safeguards for the consumers and labor. The system now is the most frustrating thing - it sets us up for failure. We will get prices wrong using it. Most stores stock 40-50,000 items, with multiple units. One individual unit priced wrong is a violation of the law. Last year, there were almost \$150,000 in fines paid by supermarkets for unmarked items.

I want to go over the concessions we have made in this bill. The scanners must have 98% accuracy. There must be a self-scanner every 5,000 square feet. There must be one-inch tall numbers on shelves identifying prices. Stores must have a qualified price accuracy guarantee and sign a job loss affidavit. The fines for violations are doubled. We think all the safeguards are there, and we're willing to put them up because we've got to get rid of these stickers.

- Joe Alicandro, Regional Vice President, Stop & Shop ([Hide Testimony](#))

There has been some concern about unions and labor. Stop & Shop is a union company. We've walked the unions through the price change procedure and showed them how it's not a labor issue. The tasks for item price changes will not change - it will still have to happen, and will still be done by employees. The unions are pleased with the promise of no job loss.

- Steve Nordstrom, Sales Merchandising Manager, Big Y Foods ([Hide Testimony](#))

Big Y is a family-owned and operated chain of stores with more than 10,000 employees. This bill will offer a new system over the archaic one that currently is in place in Massachusetts. Most stores in Connecticut use the scanning technology. I disagree that individual item pricing is helpful and accurate for consumers - all 29 of our Connecticut stores use the technology, and no stores have failed any scanner inspections. Human error is significantly reduced - and that's where item pricing errors happen. The cost of this reduces our ability to satisfy customer needs otherwise. This will allow for a better shopping experience.

- Jeff Dinneen, Director of Information Systems, Roche Bros. Supermarkets ([Hide Testimony](#))

I've been in retail for 37 years. I've had to do some of these price changes. We've made a significant investment in technology to comply with the Massachusetts law, to ensure price validation. The issues that we have come with pricing of products for our customers. We have anywhere from 50 to 100 associates who put price tags on. Sometimes they have a bad day, and there are errors. An associate is given anywhere from 25 to 50 price changes per shift. Boxes sometimes have three, four, even five labels on them. Then we go out and verify that they have priced correctly. If items don't fit on a shelf, a stocker will 'tuck' them behind. The wrong prices end up on those tucked items, because the stocker doesn't check them, and we are in error and get a fine. I invite you to come into our stores and we will show you the process.

Sen. Rodrigues: I've been working at this for 10 years. Back then, about 5 or 7 states still had this system, and all but us have switched over. I was impressed when visiting stores in other states - when stuff arrives, it is quickly set on the shelf. Here in Mass., stuff stays in the back longer due to individual pricing.

Alicandro: Certainly, the cost is passed on to the consumer. It takes additional time and can lead to lost sales.

Nordstrom: Right now, only about 250 cases can go out per person per night. Without item pricing, it would be about 300. There would be fuller shelves in stores.

Flynn: Under the current law, there are certain exemptions with disclosure. There has never been a complaint filed on exempt items.

Sen. Rodrigues: Maybe you could expound on this. There is no job loss affidavit requirement in any other state. We're not totally changing the law, just giving another option. How do you do that; how do you say we're not going to lose jobs? How can a store say that?

Alicandro: There is a budget for labor. Just because you remove one requirement doesn't mean there aren't still other tasks. What time is saved from individual item pricing will be used on other things - it will improve efficiency.

Sen. Rodrigues: So this will not result in labor savings.

Alicandro: No. If anything, it'll be savings in supplies. There's a cost savings in that there will be no more fines, as well.

Nordstrom: Between our Connecticut and Massachusetts stores, there is a minimal difference in the percentage spent on labor. Massachusetts is just a tiny bit more.

Sen. Rodrigues: Can you talk about Connecticut? Any consumer reaction?

Nordstrom: We have the same customer service line for both states, and we haven't gotten any complaints.

Alicandro: We've had a similar experience with our Stop & Shop stores in Connecticut.

- Jon Hurst, President, Retailers Association of Massachusetts ([Hide Testimony](#))

We employ 17% of the state's workforce - 560,000 people. It's been essentially a lost decade - completely flat with sales. What hasn't been flat are these people. Internet sales have grown by double digits each year. Local small businesses do not see that. Our singular mission is to talk about how our small businessmen are disadvantaged compared to internet companies. In this environment, it's very hard to fill these storefronts.

Edgar Dworsky has a link on his website to PriceGrabber - you can buy virtually anything. You can buy food and have it delivered the next morning. These companies don't employ Massachusetts workers, don't pay sales tax, and don't have item pricing.

If we're going to protect jobs, we need to level the playing field, so we're not giving the incentive to customers to go online. Bottom line, this is one issue we've got to deal with right now.

- Ed Penta, Owner, McKinnon's ([Hide Testimony](#))

I'm speaking as a small business owner. We've had growth, and I believe that's because we've been early adopters in a lot of things. Despite our size, we started a 401K, provided health insurance benefits before the mandate, and we were early adopters of personal computers, credit card machines and scanning cash registers, which ease the pain of shopping.

Item pricing accuracy is very important to McKinnon's. It makes no sense to convey inaccurate information - we would lose customers. This bill removes the adversarial relationship between us and our customers. In times of frequent price changes, this is a better way to display prices.

- Kevin Horst, General Manager, Costco Everett ([Hide Testimony](#))

We have six locations in Massachusetts. I'd like to let you know how individual item pricing adds a complex layer to our business. We have to disassemble pallets and cases, then reassemble for display. Changing prices is difficult, and requires rehandling yet again. We're not looking to reduce labor costs or get rid of jobs - simply find more efficient ways to use our staff. We have procedures and personnel who work to ensure accuracy.

- Chris Buchanan, Director of Public Affairs, Wal-Mart ([Hide Testimony](#))

The measure increases price accuracy without any problems for consumers. Scanners were found to be favorable by consumers. This provides for stronger consumer safeguards under the Division of Standards. I should note that Wal-Mart is one of the few companies growing and adding jobs in Massachusetts.

- Steve Grasky, Senior Compliance Manager, Wal-Mart ([Hide Testimony](#))

I have over 20 years experience in weights and measures. Currently, there is no national conference on item pricing because it is so rarely used. We have the technology that works, and the shelf label contains more info for the consumer. I should say that most of the speakers before us stole our thunder.

We met with the weights and measures director of Massachusetts, and in general, he felt very comfortable with the bill. The customer will ultimately decide how retailers respond.

Rep. Forry: I don't think we're eliminating item pricing. I want everyone to know that the bills vary.

Testified in Opposition

- Robert McGrath, Assistant Commissioner of Weights & Measures, City of Boston ([Hide Testimony](#))

The City of Boston supports the current item pricing model. We need more consumer protection law, not less. While well-intentioned, it does not help consumers. We remain concerned about the accessibility issues for seniors and those with disabilities. You may identify with the fact that scanners are difficult to seek out, and place an additional burden on consumers. The Attorney General does not have inspectors to check on those non-grocery stores; there is little accountability in non-supermarket settings. These bills require further study.

I'm skeptical about lowering the bar for companies who've shown contempt for state law. In addition, we'd have four sets of laws, were this to pass. To me, it's confusing and hard to enforce.

Sen. Rodrigues: As far as accountability, are you aware that it will appropriate \$3.5 to \$5 million for increased inspection and enforcement?

McGrath: That money is grant money. The City of Boston has never sought a grant, because if the grant money disappears, the person disappears. There is a big difference between price accuracy and scanner accuracy. Scanner accuracy is a different, separate inspection, as is unit pricing. I think enforcement should cover the entirety. I would rather see a bill addressing the whole marketplace.

Sen. Rodrigues: Currently, there's an unfair competitive advantage for stores that are non-food. The bill would apply similar relief for food stores.

McGrath: I don't think so. As far price-posting, they're still under the AG. The solution does not address non-food stores, which are under the AG and the rules are not enforced. Any solutions should be all-inclusive.

Sen. Rodrigues: So you'd like all stores under one statute?

McGrath: I think I could support it then, yes.

Rep. Forry: I'm not sure about including all non-food, but we can have a discussion about that.

McGrath: About eight or nine years ago, they came up with the aisle scanners. It put an end to lawsuits, but it didn't

create any equity.

Rep. Forry: This has been going on for 10 years. This bill does not say there will not be prices. We're not eliminating individual pricing altogether.

- Deirdre Cummings, Legislative Director, MassPIRG ([Hide Testimony](#))

I personally have been working on this issue for almost longer than Sen. Rodrigues. I oppose all of these bills. Food store item pricing is longstanding and overwhelmingly popular. We don't oppose new technology, just allowing stores to offer fewer consumer benefits than they do now. When consumer info is hard to find, consumer power is compromised - and we are more easily taken advantage of. It's not a coincidence that milk is located in the back of the store.

Stores are constantly coming up with new gimmicks to get us to buy more. They may be offering good sales - or not - but we must have easy to learn, easy to compare pricing info to know. No proposed alternatives provide all of the benefits that now exist. People will make more purchasing decisions based on price, keeping the prices in the market low.

Rep. McMurtry: I'm just curious - this proposes a model that's worked in every state but Massachusetts. I wonder if the gain in customer service would outweigh the current benefits.

Cummings: Arizona switched over a few years ago and just started using shelf tags, and they became much less compliant. We are afraid that over time, compliance with disclosure will get weaker. We don't look at it as more or less.

Rep. McMurtry: Individuals who've testified have said the success of the business relies on customer service. The only people I can see getting mad about this are the manufacturers of the price guns and labels.

Sen. Rodrigues: When I am doing real comparing, I am looking at the unit price, not the item price. Consumers who want to compare accurately do unit pricing. Unless you want to add the unit price to tags too?

Cummings: We'd support that.

Sen. Rodrigues: I agree that enforcement is key. The Division of Standards has limited resources, though.

Cummings: Well, in the bill, the cap on overall fines stays the same, and the number of inspections will decrease. In that way, enforcement has gotten worse.

Rodrigues: Isn't the most fair way to do it by unit pricing?

Cummings: We simply feel this bill erodes some of the tools for consumers.

- Corey Pilz, Cambridge Consumer Council ([Hide Testimony](#))

These bills have prompted some concern among consumer advocates. It's important to draw the distinction between grocery store and retail pricing. In grocery stores, you purchase many more items and you go to the store much more frequently.

Respondents to a 7 News survey a few years back overwhelmingly support item pricing - 95% said they'd like to keep the current system. In that same survey, 9 out of 10 said they'd like to go back to item pricing in stores that have scanners. Please think back to your last shopping experience. I compared the price between the store brand and the name brand using stickers. With stickers, it's a built-in verification process. You can't check with scanners to see if you're overcharged. Are seniors and the disabled going to be able to get to scanners? We ask you to keep the consumer in mind.

- Peter Derouen, Director of Political & Legislative Affairs, UFCW Local 791 ([Hide Testimony](#))

In 2003, the AG had a hearing prior to changing the regulations for non-food retailers. They warned against the merger of food and non-food regulations. There is talk of Massachusetts being the last state - but I think that's due to a change of politics more than anything. There is a lot of talk about the job situation. The fact of the matter is - full-time workers will be forced to go part-time. I've attended these hearings for several years and this is the first I've heard of the costs of pricing guns and stickers. I think labor costs are the real thing. If there was so much to do in stores, why do we have so many full-timers at Shaw's moved to part-time involuntarily?

This would be impossible to enforce accurately. The law has served the citizens of Massachusetts well. The only winners in this are operators.

Testified with Comments Only

- Jack Walsh, Sealer of Weights & Measures, Town of Framingham ([Hide Testimony](#))

I think we all agree that the current law needs to be changed. We need to level the playing field - for example, health and beauty items don't need to be individually marked in other stores, but they do in supermarkets. When I testified in July of 2009, the committee saw the light on enforcement tools. The problem with price verification inspection is with non-food stores - if I can't figure out the price, I skip it. I can't do anything about items without obvious prices. I just want to make the committee aware of that. It's also difficult to read prices as you get older. If you can't read a price, you walk away and don't purchase the product.

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