Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 250

HOUSE BILL 2034

AN ACT

AMENDING SECTION 41-2081, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF WEIGHTS AND MEASURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 41-2081, Arizona Revised Statutes, is amended to read:

41-2081. Sale of commodities

A. A person shall not sell or offer or expose for sale less than the quantity the person represents.

B. As a buyer, a person shall not take any more than the quantity the person represents when the person furnishes the weight or measure by means of which the quantity is determined.

C. A person shall not misrepresent the price of any commodity or service sold or offered, exposed or advertised for sale by weight, measure or count or represent the price in any manner calculated or tending to mislead or in any way deceive a person.

D. Except as otherwise provided by the director, commodities in liquid form shall be sold by liquid measure or by weight, and commodities not in liquid form shall be sold only by weight, by measure or by count, as long as the method of sale provides accurate quantity information.

E. If the quantity is determined by the seller, bulk sales shall be accompanied by a delivery ticket containing the following information unless exempted by rule:

1. The name and address of the vendor and purchaser.

2. The date delivered.

3. The quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity.

4. The identity in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale.

5. The count of individually wrapped packages, if more than one.

F. Except as otherwise provided in this chapter or by rules adopted pursuant to this chapter, any package kept for the purpose of sale or offered or exposed for sale shall bear on the outside of the package a definite, plain and conspicuous declaration of:

1. The identity of the commodity in the package, unless the commodity can easily be identified through the wrapper or container.

2. The quantity of contents in terms of weight, measure or count.

3. The name and place of business of the manufacturer, packer or distributor, in the case of any package kept, offered or exposed for sale or sold in any place other than on the premises where packed.

4. The price, except as provided in subsections K and L.

G. In addition to the declarations required by subsection F, any package being one of a lot containing random weights of the same commodity and bearing the total selling price of the package shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight.

H. If a packaged commodity is advertised in any manner with the retail price stated, there shall be closely and conspicuously associated with the retail price a declaration of quantity as is required by law or rule to appear on the package. If a dual declaration is required, only the declaration that sets forth the quantity in terms of the smaller unit of weight or measure need appear in the advertisement.

I. The packager of a short weighted item offered for sale is liable under this chapter.

J. If a retail seller engaging in the sale of motor fuel posts the selling price of the fuel on the premises, the seller shall post the selling price only by the price per gallon, except that if the fuel is dispensed by a measure other than whole gallons the seller shall represent the selling price for each unit of such other measure on the individual pump or other dispensing device. If a retail seller engaging in the sale of motor fuel advertises the price of the fuel off the premises, the retail seller shall advertise the price only by the price per gallon.

K. THE OWNER OR OPERATOR OF A MOTOR FUEL DISPENSING SITE SHALL ENSURE THAT A STICKER PROVIDED BY THE DEPARTMENT OF TRANSPORTATION THAT IS THREE INCHES BY FIVE INCHES AND THAT DEPICTS THE AMOUNT OF FEDERAL AND STATE TAXES IMPOSED ON ONE GALLON OF GASOLINE, IS DISPLAYED ON ONE SIDE OF EACH MOTOR FUEL DISPENSER. THE STICKER REQUIRED BY THIS SUBSECTION SHALL CONTAIN WHITE LETTERING ON A BLACK BACKGROUND OR BLACK LETTERING ON A WHITE BACKGROUND TO ENSURE A CONTRASTING COLOR TO THE MOTOR FUEL DISPENSER AND SHALL BE PLACED ON THE UPPER SIXTY PER CENT OF THE DISPENSER. THE DEPARTMENT OF WEIGHTS AND MEASURES SHALL USE STICKERS PROVIDED BY THE DEPARTMENT OF TRANSPORTATION. A TEMPLATE OF THE STICKER SHALL BE PLACED ON THE DEPARTMENT OF WEIGHTS AND MEASURES' WEBSITE FOR USE BY RETAILERS. DURING THE COURSE OF ITS NORMAL RANDOM INSPECTIONS, THE DEPARTMENT OF WEIGHTS AND MEASURES SHALL APPLY THE STICKERS WITH A COMPLIANCE SCHEDULE OF FOUR YEARS AFTER THE EFFECTIVE DATE OF THE AMENDMENT TO THIS SECTION.

~~K.~~ L. Instead of each package bearing the price as required under subsection F, paragraph 4, the seller may post the price of the package in bold type that measures no less than three-eighths of an inch on the shelf or display at the point of display of the product. If the price on the shelf or display is less than eighteen inches from floor level, the price shall be angled upward from vertical at least fifteen degrees.

~~L.~~ M. If the package is offered for sale at a price reduced by a percentage or a fixed amount from a previously offered price, the reduction shall be displayed at the point of display of the package in the manner required by this section.

~~M.~~ N. On the request of a consumer, a retail seller shall provide:

1. A means of recording prices such as grease pencils, felt markers, scanners or other similar instruments for recording the price.

2. A written statement of the retail seller's policies regarding errors in pricing.

APPROVED BY THE GOVERNOR MAY 7, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2010.