



General Assembly

February Session, 2022

Raised Bill No. 5150

LCO No. 1249



Referred to Committee on GENERAL LAW

Introduced by:
(GL)

AN ACT CONCERNING THE DEPARTMENT OF CONSUMER PROTECTION'S RECOMMENDATIONS REGARDING CONSUMERS, RETAILERS AND CREDIT TRANSACTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 21a-79 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2022*):

3 (a) For the purposes of this section: [(1) "consumer commodity" and
4 "unit of a consumer commodity" have]

5 (1) "Alcoholic liquor" has the same meaning as provided in section
6 30-1;

7 (2) "Carbonated soft drink container" means an individual, separate
8 sealed glass, metal or plastic bottle, can, carton or jar containing a
9 carbonated liquid soft drink that is sold separately or in packages of not
10 more than twenty-four individual containers;

11 (3) "Consumer commodity" has the same meaning as provided in
12 section 21a-73, except that consumer commodity does not include

13 alcoholic liquor [, as defined in subdivision (3) of section 30-1,] or a
14 carbonated soft drink container; [(2) "carbonated soft drink container"
15 means an individual, separate, sealed glass, metal or plastic bottle, can,
16 jar or carton containing a carbonated liquid soft drink sold separately or
17 in packages of not more than twenty-four individual containers; (3)
18 "universal product coding"]

19 (4) "Electronic pricing system" means a system that utilizes, by means
20 of a scanner, universal product coding bar codes in combination with a
21 cash register to record and total a consumer's purchases;

22 (5) "Electronic shelf labeling system" means an electronic system that
23 utilizes an electronic device which (A) is attached to a shelf, or at any
24 other point of sale, immediately above or below an item, (B) clearly and
25 conspicuously displays to consumers the price and unit price of a
26 consumer commodity, and (C) reads the same data as an electronic cash
27 register scanning system;

28 (6) "End cap display" means a location in a retail sales area that is at
29 the immediate end of an aisle;

30 (7) "Unit of a consumer commodity" has the same meaning as
31 provided in section 21a-73; and

32 (8) "Universal product coding" means any system of coding that
33 entails electronic pricing. [; (4) an electronic shelf labeling system is an
34 electronic system that utilizes an electronic device attached to the shelf
35 or at any other point of sale, immediately below or above the item, that
36 conspicuously and clearly displays to the consumer the unit price and
37 the price of the consumer commodity. Such electronic shelf labeling
38 system reads the exact same data as the electronic cash register scanning
39 system; and (5) an electronic pricing system is a system that utilizes the
40 universal product coding bar code by means of a scanner in combination
41 with the cash register to record and total a customer's purchases.]

42 (b) (1) (A) Any person who, or association, corporation, firm [,] or
43 partnership [, association or corporation] that, [utilizes] uses universal

44 product coding [in totaling] to total a retail [customer's] consumer's
45 purchases shall mark, or cause to be marked, each consumer commodity
46 that bears a [Universal Product Code] universal product code with [its]
47 such consumer commodity's retail price.

48 (B) Any person who, or association, corporation, firm [,] or
49 partnership [, association or corporation] that, [utilizes] uses an
50 electronic pricing system [in totaling] to total a retail consumer's
51 purchases shall provide [each] to such consumer [with] an item-by-item
52 digital display, plainly visible to [the] such consumer as each universal
53 [pricing] product code is scanned, of the price of each carbonated soft
54 drink container or consumer commodity, [or carbonated soft drink
55 container,] or both, which such consumer has selected for purchase [by
56 such consumer prior to accepting] before such person, association,
57 corporation, firm or partnership accepts payment from such consumer
58 for such carbonated soft drink container or consumer commodity, or
59 [container] both. The provisions of this subparagraph [do] shall not be
60 construed to apply to any person who, or association, corporation, firm
61 [,] or partnership [, association or corporation] that, is operating in a
62 retail sales area of not more than ten thousand square feet.

63 (2) The provisions of subparagraph (A) of subdivision (1) of this
64 subsection shall not apply if [:] (A) [The] the Commissioner of Consumer
65 Protection, by regulation, allows for the [utilization] use of electronic
66 shelf labeling systems, [;] (B) [a retailer] the commissioner grants to a
67 person, association, corporation, firm or partnership [is granted]
68 approval to [utilize] use an electronic shelf labeling system, [by the
69 commissioner;] (C) [the retailer has demonstrated] the person,
70 association, corporation, firm or partnership demonstrates, to the
71 commissioner's satisfaction, [of the commissioner] that such electronic
72 shelf labeling system is supported by an electronic pricing system that
73 [utilizes] uses universal product coding [in totaling] to total a retail
74 [customer's] consumer's purchases, [;] and (D) [the retailer] such person,
75 association, corporation, firm or partnership has received the
76 commissioner's approval for such an electronic pricing system. [by the
77 commissioner.]

78 (3) The provisions of subparagraph (A) of subdivision (1) of this
79 subsection shall not apply to a person, association, corporation, firm or
80 partnership if [:] (A) [The retailer has met] the conditions [of] established
81 in subdivision (2) of this subsection have been satisfied, [;] and (B) the
82 [retailer] person, association, corporation, firm or partnership has
83 received the Commissioner of Consumer Protection's permission [by the
84 commissioner] to suspend implementation of the electronic pricing
85 system for a period, not to exceed thirty days, [in order to allow the
86 retailer] to enable such person, association, corporation, firm or
87 partnership, or an agent acting on behalf of [the retailer] such person,
88 association, corporation, firm or partnership, to [reset,] remodel, repair,
89 reset or otherwise modify such electronic pricing system at the retail
90 establishment.

91 (4) The provisions of subparagraph (A) of subdivision (1) of this
92 subsection shall not apply to a person, association, corporation, firm or
93 partnership if [:] (A) [The retailer] the person, association, corporation,
94 firm or partnership applies for, and [is approved for] the Commissioner
95 of Consumer Protection approves, an exemption [by the Commissioner
96 of Consumer Protection] for such person, association, corporation, firm
97 or partnership, (B) [the retailer] such person, association, corporation,
98 firm or partnership demonstrates, to the commissioner's satisfaction, [of
99 the commissioner] that [the retailer] such person, association,
100 corporation, firm or partnership has achieved price scanner accuracy of
101 at least ninety-eight per cent, as determined by the latest version of the
102 National Institute of Standards and Technology Handbook 130,
103 "Examination Procedures for Price Verification", as adopted by The
104 National Conference on Weights and Measures, [",] (C) [the retailer]
105 such person, association, corporation, firm or partnership pays an
106 application fee, to be used to offset annual inspection costs, of three
107 hundred fifteen dollars, if the premises consists of less than twenty
108 thousand square feet of retail space, [and] or six hundred twenty-five
109 dollars, if the premises consists of at least twenty thousand square feet
110 [or more] of retail space, (D) [the retailer] such person, association,
111 corporation, firm or partnership makes available a consumer price test

112 scanner that is approved by the commissioner and located prominently
113 in an easily accessible location for each twelve thousand square feet of
114 retail floor space, or fraction thereof, and (E) price accuracy inspections
115 resulting in less than ninety-eight per cent price scanner accuracy are
116 reinspected, without penalty, and [the retailer] such person, association,
117 corporation, firm or partnership pays a two-hundred-fifty-dollar
118 reinspection fee.

119 (5) Notwithstanding any provision of this subsection, consumer
120 commodities that are offered for sale and [that are] located on an end
121 cap display within the retail sales area [are] shall not be subject to the
122 requirements [specified under] established in this subsection, provided
123 any information that would otherwise have been made available to a
124 consumer pursuant to this section is clearly and conspicuously posted
125 on or adjacent to such end cap. [For purposes of this subdivision, "end
126 cap display" means the location in the retail sales area that is at the
127 immediate end of an aisle.]

128 (6) Consumer commodities that are advertised in a publicly
129 circulated printed form as being offered for sale at a reduced retail price
130 for a minimum seven-day period need not be individually marked at
131 such reduced retail price, provided such consumer commodities are
132 individually marked with their regular retail price and a conspicuous
133 sign [is] adjacent to such consumer commodities [, which sign] discloses
134 [:] (A) [The] such reduced retail price and [its] the unit price [:] of such
135 consumer commodities, and (B) a statement disclosing that [the item]
136 the cashier will [be] electronically [priced] price such consumer
137 commodities at [the] such reduced price. [by the cashier.]

138 (7) (A) [If] Except as provided in subparagraph (B) of this
139 subdivision, if a consumer commodity is offered for sale and [its] the
140 consumer commodity's electronic price is higher than the posted price,
141 then one item of such consumer commodity, up to a value of twenty
142 dollars, shall be given to the consumer at no cost to the consumer. A
143 conspicuous sign shall adequately disclose to the consumer that in the
144 event the electronic price is higher than the posted retail price, one item

145 of such consumer commodity shall be given to the [customer] consumer
146 at no cost to the consumer.

147 (B) The provisions of subparagraph (A) of this subdivision shall not
148 apply to a person, association, corporation, firm or partnership in cases
149 where the person, association, corporation, firm or partnership (i)
150 improperly fails to redeem a digital or paper coupon which, if properly
151 redeemed, would reduce the price of a consumer commodity, or (ii) fails
152 to remove a sign adjoining a consumer commodity and disclosing a
153 time-limited reduced price for the consumer commodity after the time
154 period specified for such reduced price has expired.

155 (8) If a consumer presents a digital or paper coupon which, if
156 properly redeemed, would reduce the price of a consumer commodity
157 and the person, association, corporation, firm or partnership fails to
158 properly redeem such coupon, such person, association, corporation,
159 firm or partnership shall provide to the consumer a refund in an amount
160 that is equal to the value of such coupon. If a person, association,
161 corporation, firm or partnership offers a consumer commodity for sale
162 at a reduced price for a specified time period, and a sign disclosing such
163 reduced price remains adjacent to the consumer commodity following
164 expiration of such time period, the person, association, corporation, firm
165 or partnership shall only require a consumer to pay the reduced price
166 disclosed in such sign for such consumer commodity.

167 (c) (1) The Commissioner of Consumer Protection may adopt
168 regulations, in accordance with the provisions of chapter 54, concerning
169 the marking of prices, and use of universal product coding, on each unit
170 of a consumer commodity.

171 (2) The Commissioner of Consumer Protection may adopt
172 regulations, in accordance with the provisions of chapter 54, designating
173 not more than twelve consumer commodities that need not be marked
174 in accordance with the provisions of subdivision (1) of subsection (b) of
175 this section and specifying the method of providing adequate disclosure
176 to consumers to [insure] ensure that the electronic pricing of the

177 designated consumer commodities is accurate. The commissioner may
178 also establish, by regulation, methods to protect consumers against
179 electronic pricing errors of such designated consumer commodities and
180 to ~~[insure]~~ ensure that the electronic prices of such designated consumer
181 commodities are accurate. Among the methods that the commissioner
182 may consider are conditions similar to those set forth in subdivision (5)
183 of subsection (b) of this section.

184 (d) The Commissioner of Consumer Protection, after providing
185 notice and conducting a hearing in accordance with the provisions of
186 chapter 54, may issue a warning citation to, or impose a civil penalty of
187 not more than one hundred dollars for the first offense and not more
188 than five hundred dollars for each subsequent offense on, any person [~~]~~
189 who, or association, corporation, firm [,] or partnership [, association or
190 corporation] that, violates any provision of subsection (b) of this section,
191 or any regulation adopted pursuant to subsection (c) of this section. Any
192 person who, or association, corporation, firm [,] or partnership [,
193 association or corporation] that, violates any provision of subsection (b)
194 of this section, or any regulation adopted pursuant to subsection (c) of
195 this section, shall be fined not more than two hundred dollars for the
196 first offense and not more than one thousand dollars for each
197 subsequent offense. Each violation with respect to all units of a
198 particular consumer commodity on any single day shall be deemed a
199 single offense.

200 Sec. 2. Section 21a-79b of the general statutes is repealed and the
201 following is substituted in lieu thereof (*Effective October 1, 2022*):

202 (a) For the purposes of this section, "consumer commodity" has the
203 same meaning as provided in section [21a-73, except that "consumer
204 commodity" does not include alcoholic liquor, as defined in subdivision
205 (3) of section 30-1, or a carbonated soft drink container] 21a-79, as
206 amended by this act.

207 (b) (1) Notwithstanding the provisions of section 21a-79, as amended
208 by this act, and except as provided in subdivision (2) of this subsection,

209 if a retailer offers to a consumer a consumer commodity, including, but
210 not limited to, [fruits] any fruit or [vegetables] vegetable weighed at the
211 point of sale, [is offered for sale by a retailer] and [its] the price of the
212 consumer commodity to the consumer at the point of sale is [higher]
213 greater than the [posted or] advertised or posted retail price for such
214 consumer commodity, [then] such retailer shall give such consumer
215 commodity [, up to a value of twenty dollars, shall be given] to [the]
216 such consumer, at no cost to such consumer, if the value of such
217 consumer commodity is not more than twenty dollars. [A conspicuous]
218 Retailers shall post a sign, [shall] in a conspicuous location, which
219 adequately [disclose] discloses to [the consumer] consumers that in the
220 event [such] the retail price of a consumer commodity is [higher] greater
221 than the [posted or] advertised or posted retail price [,] for the consumer
222 commodity, the retailer shall give such consumer commodity [shall be
223 given] to the [customer] consumer at no cost to the consumer.

224 (2) The provisions of subdivision (1) of this subsection shall not apply
225 to a retailer if the retailer (A) improperly fails to redeem a digital or
226 paper coupon which, if properly redeemed, would reduce the price of a
227 consumer commodity, or (B) fails to remove a sign adjoining a consumer
228 commodity and disclosing a time-limited reduced price for the
229 consumer commodity after the time period specified for such reduced
230 price has expired.

231 (c) Notwithstanding the provisions of section 21-79 and except as
232 provided in subsection (b) of this section, if a consumer presents a
233 digital or paper coupon which, if properly redeemed, would reduce the
234 price of a consumer commodity, including, but not limited to, any fruit
235 or vegetable weighed at the point of sale, and the retailer fails to
236 properly redeem such coupon, such retailer shall provide to the
237 consumer a refund in an amount that is equal to the value of such
238 coupon. If a retailer offers a consumer commodity, including, but not
239 limited to, any fruit or vegetable weighed at the point of sale, for sale at
240 a reduced price for a specified time period, and a sign disclosing such
241 reduced price remains adjacent to the consumer commodity after
242 expiration of such time period, the retailer shall only require a consumer

243 to pay the reduced price disclosed in such sign for such consumer
244 commodity.

245 [(c)] (d) The Commissioner of Consumer Protection, after providing
246 notice and conducting a hearing in accordance with the provisions of
247 chapter 54, may issue a warning citation to, or impose a civil penalty of
248 not more than one hundred dollars for the first offense and not more
249 than five hundred dollars for each subsequent offense on any person
250 who, or association, corporation, firm [,] or partnership [, association or
251 corporation] that violates any provision of subsection (b) or (c) of this
252 section. Each violation with respect to all units of a particular consumer
253 commodity on any single day shall be deemed a single offense.

254 [(d)] (e) The provisions of this section do not apply to any person,
255 association, corporation, firm [,] or partnership [, association or
256 corporation] operating in a retail sales area of not more than ten
257 thousand square feet.

258 Sec. 3. Section 42-133ff of the general statutes is repealed and the
259 following is substituted in lieu thereof (*Effective October 1, 2022*):

260 (a) For the purposes of this section:

261 (1) (A) "Agent" (i) means any person who (I) arranges for the
262 distribution of services by another person, or (II) leases, rents or sells
263 tangible or intangible personal, real or mixed property, or any other
264 article, commodity or thing of value, on behalf of another person, and
265 (ii) includes, but is not limited to, (I) any person who is duly appointed
266 as an agent by a common carrier, (II) any person who sells
267 transportation, travel or vacation arrangements on behalf of another
268 person who is engaged in the business of furnishing transportation,
269 travel or vacation services, and (III) any member of a cruise line
270 association that operates exclusively as an agent for cruise lines to sell
271 cruise travel products or services.

272 (B) "Agent" does not mean (i) a common carrier, (ii) an employee of a
273 common carrier, or (iii) any person engaged in the business of

274 furnishing transportation, travel or vacation services.

275 (2) "Charge card" (A) means any card, device or instrument that (i) is
276 issued, with or without a fee, to a holder and requires the holder to pay
277 the full outstanding balance due on such card, device or instrument at
278 the end of each standard billing cycle established by the issuer of such
279 card, device or instrument, and (ii) may be used by the holder in a
280 transaction to receive services or lease, purchase or rent tangible or
281 intangible personal, real or mixed property, or any other article,
282 commodity or thing of value, and (B) includes, but is not limited to, any
283 software application that (i) is used to store a digital form of such card,
284 device or instrument, and (ii) may be used in a transaction to receive
285 such services or lease, purchase or rent any such property, article,
286 commodity or thing.

287 (3) "Credit card" (A) means any card, device or instrument that (i) is
288 issued, with or without a fee, to a holder, and (ii) may be used by the
289 holder in a transaction to receive services or lease, purchase or rent
290 tangible or intangible personal, real or mixed property, or any other
291 article, commodity or thing of value on credit, regardless of whether
292 such card, device or instrument is known as a credit card, credit plate or
293 by any other name, and (B) includes, but is not limited to, any software
294 application that (i) is used to store a digital form of such card, device or
295 instrument, and (ii) may be used in a transaction to receive such services
296 or lease, purchase or rent any such property, article, commodity or thing
297 on credit.

298 (4) (A) "Debit card" (i) means any card, code, device or other means
299 of access, or any combination thereof, that (I) is authorized or issued for
300 use to debit an asset account held, directly or indirectly, by a financial
301 institution, and (II) may be used in a transaction to receive services or
302 lease, purchase or rent tangible or intangible personal, real or mixed
303 property, or any other article, commodity or thing of value regardless of
304 whether such card, code, device, means or combination is known as a
305 debit card, and (ii) includes, but is not limited to, (I) any software
306 application that is used to store a digital form of such card, code, device

307 or other means of access, or any combination thereof, that may be used
308 in a transaction to receive such services or lease, purchase or rent any
309 such property, article, commodity or thing, and (II) any cards, codes,
310 devices or other means of access, or any combination thereof, commonly
311 known as automated teller machine cards and payroll cards.

312 (B) "Debit card" does not mean (i) a check, draft or similar paper
313 instrument, or (ii) any electronic representation of such check, draft or
314 instrument.

315 (5) "Person" means any individual, corporation, incorporated or
316 unincorporated association, limited liability company, partnership,
317 trust or other legal entity.

318 (6) "Surcharge" means any additional charge or fee that increases the
319 total amount of a transaction for the privilege of using a particular form
320 of payment.

321 (7) (A) "Transaction" means distribution by one person to another
322 person of any service, or the lease, rental or sale by one person of any
323 tangible or intangible personal, real or mixed property, or any other
324 article, commodity or thing of value to another person, for a certain
325 price.

326 (B) "Transaction" does not mean payment of any (i) fees, costs, fines
327 or other charges to a state agency authorized by the Secretary of the
328 Office of Policy and Management under section 1-1j, (ii) taxes, penalties,
329 interest and fees allowed by the Commissioner of Revenue Services in
330 accordance with section 12-39r, (iii) taxes, penalties, interest and fees, or
331 other charges, to a municipality in accordance with section 12-141a, (iv)
332 fees, costs, fines or other charges to the Judicial Branch in accordance
333 with section 51-193b, or (v) sum pursuant to any other provision of the
334 general statutes or regulation of Connecticut state agencies.

335 [(a)] (b) No [seller] person may impose a surcharge [on a buyer who
336 elects to use any method of payment, including, but not limited to, cash,
337 check, credit card or electronic means, in] on any [sales] transaction.

338 [(b) Any seller who accepts or offers to accept a bank credit card
339 bearing a trade name as a means of payment shall accept any bank credit
340 card bearing such trade name presented by a cardholder,
341 notwithstanding the identity of the card issuer. For the purposes of this
342 subsection, "bank credit card" means any credit card issued by a bank,
343 savings bank, savings and loan association or credit union.]

344 (c) (1) Nothing in this section shall prohibit any [seller] person from
345 offering a discount [to a buyer] on any transaction to induce [such buyer
346 to pay] payment by cash, check, debit card [, check] or similar means
347 rather than by charge card or credit card. No person may offer any such
348 discount unless such person posts a notice disclosing such discount.
349 Such person shall clearly and conspicuously (A) post such notice on
350 such person's premises if such person conducts transactions in-person,
351 (B) display such notice on the Internet web site or digital payment
352 application before completing any online transaction or transaction that
353 is processed by way of such digital payment application, and (C)
354 verbally provide such notice before completing any oral transaction,
355 including, but not limited to, any telephonic transaction.

356 (2) In furtherance of the legislative findings contained in section 42-
357 133j, no existing or future agreement or contract [or agreement] shall
358 prohibit a gasoline distributor or retailer [or distributor] from offering a
359 discount to a buyer based upon the method [of payment by] such buyer
360 uses to pay for such gasoline. Any provision in such [contract or]
361 agreement or contract prohibiting such [retailer or] distributor or
362 retailer from offering such discount is void and without effect [as]
363 because such provision is contrary to public policy.

364 [(d) Nothing in this section shall prohibit any seller from conditioning
365 acceptance of a credit card on a buyer's minimum purchase. Each seller
366 shall disclose any such minimum purchase policy orally or in writing at
367 the point of purchase. For the purposes of this subsection, "at the point
368 of purchase" includes, but is not limited to, at or on a cash register and
369 in an advertisement or menu.

370 (e) No provider of travel services may impose a surcharge on or
371 reduce the commission paid to a travel agent who acts as an agent for
372 such provider if the buyer uses a credit card to purchase such provider's
373 travel services. A violation of any provision of this subsection shall be
374 deemed an unfair or deceptive trade practice under subsection (a) of
375 section 42-110b. As used in this subsection, "provider of travel services"
376 means a person, firm or corporation engaged in the business of
377 furnishing travel, transportation or vacation services, but does not
378 include a travel agent, and "travel agent" means a person, firm,
379 corporation or other entity that (1) is (A) a duly appointed agent of a
380 common carrier, or (B) a member of a cruise line association and
381 operates exclusively as an agent for cruise lines in the sale of cruise
382 travel products or services, and (2) offers or sells travel, transportation
383 or vacation arrangements as an agent for a provider of travel services,
384 but does not include a common carrier or an employee of a common
385 carrier.]

386 (d) No person shall condition acceptance of a charge card or credit
387 card for a transaction on a requirement that the transaction be in a
388 minimum amount unless such person discloses such requirement. Such
389 person shall clearly and conspicuously (1) post such notice on such
390 person's premises if such person conducts transactions in-person, (2)
391 display such notice on the Internet web site or digital payment
392 application before completing any online transaction or transaction
393 processed by way of such digital payment application, and (3) verbally
394 provide such notice before completing any oral transaction, including,
395 but not limited to, any telephonic transaction.

396 (e) No person may reduce the amount of any commission paid to an
397 agent for such person in a transaction because a charge card or credit
398 card was used to provide payment as part of such transaction.

399 (f) A violation of any provision of this section shall be deemed an
400 unfair or deceptive trade practice under subsection (a) of section 42-
401 110b. The Commissioner of Consumer Protection may impose an
402 additional civil penalty for any violation of this section. The amount of

403 such additional civil penalty shall not exceed five hundred dollars per
404 violation. Payments of such additional civil penalty shall be deposited
405 in the consumer protection enforcement account established in section
406 21a-8a.

407 (g) The Commissioner of Consumer Protection may adopt
408 regulations, in accordance with the provisions of chapter 54, to
409 implement the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022	21a-79
Sec. 2	October 1, 2022	21a-79b
Sec. 3	October 1, 2022	42-133ff

Statement of Purpose:

To: (1) Provide that a retailer who fails to timely remove a promotional sale sign, or properly redeem a coupon, shall not be required to provide a commodity to a consumer free of charge, but shall instead sell the commodity to the consumer at the improperly posted price or issue a refund to the consumer for the value of the improperly redeemed coupon; (2) modify certain provisions concerning charge card, credit card and debit card transaction surcharges; and (3) make conforming, minor and technical changes to the consumer protection and related statutes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]