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H.371

Introduced by Representatives Greer of Bennington, Burkhardt of South
Burlington, Coffin of Cavendish, Logan of Burlington, McGill
of Bridport, Nelson of Derby, Nigro of Bennington, Pouech of
Hinesburg, Priestley of Bradford, and Sibia of Dover

Referred to Committee on

Date:

Subject: Consumer protection; weights and measures; dynamic pricing

Statement of purpose of bill as introduced: This bill proposes to establish a
moratorium on the use of electronic shelf labels or dynamic pricing by retailers
selling consumer commodities in the State. The moratorium would be
effective until January 15, 2027. During the moratorium, the bill would
require the Secretary of Agriculture, Food and Markets to report to the General
Assembly regarding the use of electronic shelf labels or dynamic pricing and
how to protect consumers. When the moratorium expires, provisions regarding
the use of electronic shelf labels or dynamic pricing would go into effect.

An act relating to the use of dynamic pricing by retail establishments

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 6 V.S.A. § 681 is amended to read:

§ 681. DEFINITIONS

1 As used in this chapter:

2 (1) ~~“Secretary” means the Secretary of Agriculture, Food and Markets.~~

3 (2) “Consumer commodity” means any food, drug, device, or cosmetic
4 and other article, product, or commodity of any other kind or class, except for
5 drugs sold only by prescription:

6 (A) that are customarily produced for sale to retail sales agencies or
7 instrumentalities for consumption by individuals, for use by individuals for
8 purposes of personal care, or in the performance of services ordinarily
9 rendered in or around the household; and

10 (B) that usually are consumed or expended in the course of such
11 consumption or use.

12 (2) “Dynamic pricing” means the use of artificial intelligence to adjust
13 the prices on the electronic shelf labels of consumer commodities at any given
14 moment.

15 (3) “Electronic shelf labels” are digital wireless display systems that
16 retailers use to show product prices at the point of sale.

17 (4) “Point of sale” means the point at which consumer commodities are
18 offered and displayed for retail sale in such a manner that the consumer may
19 examine and select commodities for purchase without the assistance of sales
20 personnel.

1 (5) “Retailer” means a person who sells a consumer commodity in the
2 State at points of sale.

3 (6) “Secretary” means the Secretary of Agriculture, Food and Markets.

4 ~~(3)~~(7) “Unit price” of a consumer commodity means the retail price of a
5 consumer commodity expressed in terms of the retail price of such commodity
6 per such unit of weight, measure, or count as the Secretary designates,
7 computed to the nearest whole cent or fraction thereof as the Secretary
8 designates.

9 Sec. 2. 6 V.S.A. § 684 is added to read:

10 § 684. USE OF ELECTRONIC SHELF LABELS; DYNAMIC PRICING

11 (a) A retailer selling a consumer commodity in the State may use electronic
12 shelf labels to disclose to consumers the retail price and unit price of the
13 consumer commodity for sale.

14 (b) A retailer using electronic shelf labels shall not use dynamic pricing to
15 alter the retail price or unit price of a consumer commodity while the retailer is
16 open to the public.

17 (c) A retailer shall not alter the retail price or unit price of a consumer
18 commodity until at least 24 hours since the last alteration to the retail price or
19 unit price for the consumer commodity.

20 Sec. 3. REPORT ON USE OF ELECTRONIC SHELF LABELS DYNAMIC
21 PRICING; MORATORIUM

1 (a) As used in this section:

2 (1) “Consumer commodity” means any food, drug, device, or cosmetic
3 and other article, product, or commodity of any other kind or class, except for
4 drugs sold only by prescription:

5 (A) that are customarily produced for sale to retail sales agencies or
6 instrumentalities for consumption by individuals, for use by individuals for
7 purposes of personal care, or in the performance of services ordinarily
8 rendered in or around the household; and

9 (B) that usually are consumed or expended in the course of such
10 consumption or use.

11 (2) “Dynamic pricing” means the use of artificial intelligence to adjust
12 the prices on the electronic shelf labels of consumer commodities at any given
13 moment.

14 (3) “Electronic shelf labels ” are digital wireless display systems that
15 retailers use to show product prices at the point of sale.

16 (4) “Point of sale” means the point at which consumer commodities are
17 offered and displayed for retail sale in such a manner that the consumer may
18 examine and select commodities for purchase without the assistance of sales
19 personnel.

20 (5) “Retailer” means a person who sells a consumer commodity in the
21 State at points of sale.

1 (b) On or before January 15, 2027, a retailer shall not use electronic shelf
2 labels or dynamic pricing to display the retail price or unit price of a consumer
3 commodity offered for sale at a point of sale.

4 (c) On or before January 15, 2026, the Secretary of Agriculture, Food and
5 Markets shall submit to the House Committees on Agriculture, Food
6 Resiliency, and Forestry and on Commerce and Economic Development and
7 the Senate Committees on Agriculture and on Economic Development,
8 Housing and General Affairs a report regarding the use by retailers in the State
9 of electronic shelf labels and dynamic pricing to display or alter the display of
10 the retail price or unit price of a consumer commodity. The report shall
11 include:

12 (1) a summary of how electronic shelf labels and dynamic pricing
13 operates, including the technology used to operate electronic shelf labels and
14 dynamic pricing;

15 (2) a summary of national state standards for regulation of the use of
16 electronic shelf labels or dynamic pricing, including whether entities such as
17 the National Institute on Standards and Technology have adopted
18 recommended provisions for the regulation of electronic shelf labels or
19 dynamic pricing; and

1 (3) a recommendation on whether and how to use electronic shelf labels
2 or dynamic pricing in a manner that protects consumers from unfair pricing
3 strategies or mispricing.

4 Sec. 4. EFFECTIVE DATES

5 (a) This section and Sec. 3 (moratorium; report on electronic shelf labels
6 and dynamic pricing) shall take effect on passage.

7 (b) Secs. 1 and 2 (allowed use of electronic shelf labels or dynamic pricing)
8 shall take effect on January 16, 2027.