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ITEM PRICING REPORT
with executive summary

October 2012

I. Executive Summary

A. Purpose

From day one of the current legislative session, one of the Michigan legislature's top priorities was to pass the Shopping Reform and Modernization Act (SRMA). This was evidenced by the quick passage of the bill into law, despite calls from many legislatures to slow down and ask for more public input. Michigan Citizen Action (MCA) expressed opposition to the bill, not just on its merits, but in principle, because it seemed the needs of workers and consumers were being ignored during a time where they were unfairly burdened by the struggling economy and tough job market. MCA was against the primary purpose of the SRMA—repealing the Item Pricing Law (IPL) requiring retailers to individually price most products—and was concerned that the SRMA was damaging to consumers.

The SRMA was passed on the platform that it would not have an adverse affect on employment, and that it would save consumers money and improve the shopping experience for all. Soon after the bill was passed, MCA began an investigation to find out whether the claims and promised of the bill's supporters would become a reality. Unfortunately, what we found is that none of promises came true, and that the well-being of consumers and workers were sacrificed to help line the pockets of big business.

B. Major Findings

1. Repealing IPL did not save consumers any money, despite the claim it would save consumers \$2.2 billion dollars in hidden taxes. In fact, Michigan prices stayed consistently higher, and grew at a faster rate, than the national average. There was no price “correction” that would indicate any savings for consumers.
2. If retailers kept their promise, and workers did not experience cuts in hours, that would possibly explain why prices of goods did not go down; however, retailers broke their promise, and workers in the retail sector suffered devastating wage reductions. Moreover, the usual “wage boom” that workers enjoyed at the end of each year was completely eliminated—an insult to injury, considering that corporate executives still enjoy their bonus checks.
3. The \$100,000 appropriation was included in the bill for the sole purpose of ensuring that voters could not repeal the SRMA by public referendum. The Attorney General only spent about \$6,000 of the entire appropriation implementing the “Consumer Education Program.” There is little doubt the bill sponsors were aware that consumers were generally opposed to the SRMA, so they made sure repeal of the law by referendum was not an option.

C. Leadership Must Protect Michigan Consumers

If legislators will not pass consumer-friendly legislation, and retailers refuse to pass savings on to consumers and employees, the Attorney General and Department of Agriculture and Rural Development must step up. Currently, the AG and DARD have failed to fully enforce consumer protections. First, DARD and AG need to better educate consumers on what strategies and tools consumers need to protect themselves. Second, AG and DARD must take affirmative action to hold retailers accountable and protect consumers. These things must be done to restore trust in Michigan's leaders.

II. Investigation

Michigan Citizen Action (MCA), as part of our ongoing efforts to promote the well-being of consumers and economic equality across Michigan, undertook an investigation to determine whether the Shopping Reform and Modernization Act (SRMA) benefitted consumers, or benefitted only the bill's corporate backers. The investigation suggests to us that the benefits to consumers were oversold by the bill's sponsors, that the priorities of the current legislature do not include the well-being of consumers, and that the SRMA has been damaging to Michigan.

A. Tour of Michigan Retailers

Beginning in June 2011, staff at Michigan Citizen Action (MCA) shopped at nine retailers every month, visiting urban-, suburban-, and rural-area grocery stores throughout the state. The stores visited were:

- Meijer, 5125 Saginaw Hwy, Lansing, MI 48917
- Meijer, 11901 Fulton St, Lowell, MI 49331
- Wal-Mart Super Center, 1680 Packard Hwy, Charlotte, MI 48813
- Hiller's Markets, 3615 Washtenaw Ave, Ann Arbor, MI 48104
- D & W Fresh Markets, 6425 28th St SE, Grand Rapids, MI 49546
- Harding's Friendly Market, 3750 W. Centre Ave, Portage, MI 49024
- Kroger, 26400 Ford Rd, Dearborn Heights, MI 48127
- Walgreen's, 14048 Woodward Ave, Highland Park, MI 48203
- Tom's Food Market, 738 Munson Ave, Traverse City, MI 49686

Staple foods and household necessities were purchased. The items were varieties of:

- Cereal
- Bread
- Peanut butter
- Flour
- Baking mix
- Canned beans
- Canned corn
- Canned tuna
- Paper towel
- Toilet paper
- Dish soap

A total of 156 items were tracked throughout the duration of the project, resulting in about 1400 price observations, a plethora of photographs, and many revealing notes describing the experiences in each store. All items purchased were photographed with the tag showing (if the tag was present) to confirm any discrepancies between the shelf price and receipt price. Both receipts and photographs were consulted during the formulation of the monthly reports.

B. Public Opinion

In March 2011, before SRMA was passed, MCA randomly selected 974 Michigan voters, of which 124 gave responses to questions designed to measure voters' level of support of the repeal of the Item Pricing Law. A poll by EPIC-M RA is also cited.

C. Consumer Price Index

The consumer price index (CPI) is a measure of the cost of goods purchased in urban areas. The index is calculated by average cost relative to a base period. Though it is imperfect, it is the best tool to quantify the impact of the IPL repeal on prices. In fact, the study the bill sponsors used to justify their positions used CPI in a similar fashion.

D. Labor Statistics

Labor market information was gleaned from the Michigan Labor Market Information website, managed by the Michigan Department of Technology, Management & Budget.¹ Trends were identified by comparing the hiring patterns, wages, and growth of the retail industry. Information was also provided by leadership at UFCW Local 951.

III. The Shopping Reform and Modernization Act

In January 2011, State Representative Lisa Posthumus Lyons and 33 others introduced HB 4158, otherwise known as the "Shopping Reform and Modernization Act" (SRMA).² In Rep. Lyons' testimony in front of the House Commerce Committee on February 1, 2011, she spoke "not only as a state legislator, but as today's generation of shoppers and a working mother." Rep. Lyons said, "Michigan consumers [were] being left behind by an antiquated law—enacted before [she] was born—that cost shoppers time and retailers billions of dollars that can be better spent investing in other areas." Rep. Lyons' goal was to "make the shopping experience more efficient and easier for . . . all consumers in Michigan." It has been over one year since the bill was passed in March 2011, and **Michigan Citizen Action has subjected the bill and the many claims of the bill sponsors to the test.**

A. Repeal of the Item Pricing Law

The SRMA was signed into law by Governor Rick Snyder on March 31, 2011. However, the SRMA did not go into effect until September 1, 2011, despite efforts to also give it immediate effect.³ The primary effect of the law was to repeal Michigan's "Item Pricing Law" (IPL) so that retailers would be no longer required to affix price stickers to individual items.⁴

¹ <http://www.milmi.org/>.

² P.A. 2011, No. 15; MCL 445.311 et. seq.

³ MCL 445.311

⁴ Department of Agriculture & Rural Development (hereinafter "DARD"), *Item Pricing and Scanning Accuracy Questions and Answers*, available at http://www.michigan.gov/mdard/0,4610,7-125-1566_1733_2314-12359--,00.html.

Now, a price is considered displayed when there is a price in the store at the place where the item is located, and there is no requirement that individual items be priced.⁵

B. The Department of Agriculture and Rural Development

Under the new law, Department of Agriculture and Rural Development (DARD) maintains authority over two sections of the SRMA.⁶ One section states the display requirement⁷ and includes thirteen exceptions for things including items sold by weight and mail order items.⁸ The other section bars retailers from charging consumers above the display price,⁹ but does not bar them from charging below.¹⁰ **DARD is responsible for creating regulations to implement and administer these sections, investigate complaints concerning violations of these sections, and “conduct any other investigations . . . consider[ed] advisable.”¹¹** The language of the bill gives the DARD discretion to conduct itself in a way to ensure compliance with the SRMA’s display requirements.

C. The Office of the Attorney General and the \$100,000 “Consumer Education Program”

The Office of the Attorney General (AG) is responsible for creating rules and regulations to implement the rest of the SRMA,¹² and has the power to file suit to prevent retailers from continuously violating the law.¹³ In order to bring suit, the AG must first notify the retailer and give the retailer 48 hours to “cease and desist” or take steps to “cease and desist,” which is satisfied if the retailer provides written “assurance of discontinuance.”¹⁴

The AG was appropriated \$100,000 for a “public consumer education program” to provide information and advice regarding the requirements of the act and the consumer protections available,¹⁵ and the bill explicitly required the AG to create a website.¹⁶ The website created by the AG is host to an explanation of the law and a series of questions and



Figure 1: Photo from AG Webpage.

⁵ A price is “displayed” for a consumer item if the price is stamped, affixed, or otherwise marked on the consumer item or the price of the consumer item is displayed, by signage, by an electronic reader, or by any other method that clearly and reasonably conveys the current price of the consumer item, to a consumer when in the store at the place where the item is located. 445. 312(e).

⁶ 445.313

⁷ Except at otherwise stated in subsection (2), a person shall display the total price of a consumer item offered for sale at retail at the place of the retail sale. MCL 445.317(1).

⁸ 445.317(2).

⁹ 445.318(1).

¹⁰ 445.318(2).

¹¹ 445.313.

¹² 445.320(6).

¹³ 445.320(1).

¹⁴ 445.320(2)-(3).

¹⁵ 445.321(1).

¹⁶ 445.321(2).

answers to help consumers understand the SRMA.¹⁷ It also provides information on how to obtain a dollar-bill-sized “Scanner Error Bill of Rights,” and how to ask questions or obtain complaint information.^{18,19} In addition, the AG promised to integrate education about the law in “popular consumer education programs that the Attorney General’s office presents statewide.”²⁰ This module consisted of a PowerPoint presentation that explained the main changes of the SRMA and protections available to consumers.²¹ The AG also said part of the public education program was circulation of a pamphlet called “Ten Tips for Savvy Consumers.”²²

In sum, the AG put forth seven distinct pieces to the consumer education program; however several of the proposals were detailed reiterations of a larger program. The program basically consisted of a wallet-sized Scanner Error Bill of Rights; a webpage; an update to an already existing pamphlet; and a PowerPoint presentations. There is a webpage where most of these can be accessed.²³ The AG spent \$6,236.77 of the \$100,000 appropriation.²⁴

D. The Bounty Provision and Consumer Remedies

Three conditions must be met for a customer to be eligible for a bounty—a reward for being overcharged: (1) a price must be displayed for the item, (2) the sale must be recorded by an automatic checkout system, and (3) the buyer must be given a receipt that describes the item and states the price charged.²⁵ If any one of these elements is missing, a bounty is unavailable. A consumer has 30 days to notify the retailer of the overcharge.²⁶ **Retailers must pay overcharged consumers the difference between the amount charged and the display price plus a “bonus” of \$1.00 to \$5.00, depending on the extent of the overcharge.**²⁷ If the retailer does not pay back an overcharged consumer the difference and bonus, the consumer can sue.²⁸

¹⁷ Attorney General Bill Schuette, *Michigan’s New Scanner Law: The 2011 Shopping Reform and Modernization Act*, available at http://www.michigan.gov/ag/0,4534,7-164-17337_20942-134114--,00.html.

¹⁸ View the Scanner Error Bill of Rights at:

http://www.michigan.gov/documents/ag/Scanner_Error_Bill_of_Rights_353716_7.pdf.

¹⁹ Order a Scanner Error Bill of Rights by calling the AG Consumer Protection Division at (517) 373-1140 or toll-free at (877) 765-8388.

²⁰ Bill Schuette, Michigan Attorney General (February 11, 2011): Testimony submitted to the Michigan Senate Economic Committee (February 23, 2011).

²¹ http://www.michigan.gov/documents/ag/Handout_Shopping_Modernization_356715_7.pdf

²² The circulated pamphlet is actually called “Encouraging Savvy Consumers.”

http://www.michigan.gov/documents/Ten_Tips_119851_7.pdf_of_color_brochure.pdf

²³ Michigan’s New Scanner Law, available at http://www.michigan.gov/ag/0,4534,7-164-17337_58527---,00.html

²⁴ Michigan House Fiscal Agency.

²⁵ DARD.

²⁶ Id.

²⁷ Id.

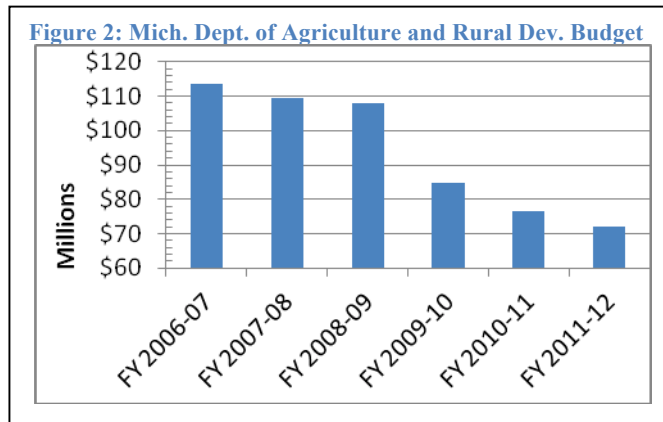
²⁸ Id.

IV. Findings: Implementation, Public Opinion and Impact

A. The Department of Agriculture and Rural Development has failed in its oversight capacity, while the Attorney General has failed in its consumer protection capacity and has inadequately implemented a consumer education program.

i. Department of Agriculture and Rural Development

Based on the investigation by Michigan Citizen Action (MCA), many retailers chose to abandon compliance with the Item Pricing Law (IPL) before the Shopping Reform and Modernization Act (SRMA) repealed the IPL requirement on the effective date of September, 1, 2011. MCA found that in July 2011, 41% of items that should have been priced were not priced. In August 2011, the number of unpriced items grew to 53%.²⁹ In other words, **retailers**



discontinued item pricing in July 2011 instead of the effective date of September 2011, before they were legally allowed to do so. The Department of Agriculture and Rural Development (DARD) was in charge of enforcing the IPL during this period.³⁰ Therefore, DARD was either ill-equipped to handle its responsibilities, or simply chose not to.

Eighteen months after the SRMA was passed, DARD did not promulgate any rules or regulations under the SRMA,³¹ with the exception of creating a webpage called Item Pricing and Scanning Accuracy Questions and Answers.³² The page is contained within the Laws and Regulations section of the DARD website, but contains no actual laws or regulations not already stipulated by the law itself. Moreover, DARD has been cut 35%³³ since Governor Rick Snyder took office, while also being expanded to include rural development in addition to its existing responsibilities.³⁴

ii. The Attorney General

The Attorney General has failed to promulgate rules or regulations under SRMA since the IPL rules have been rescinded by repeal of the enabling law.³⁵ The AG's Encouraging Savvy Consumers pamphlet says to "prevent overcharges, make sure the items you purchase scan at the price displayed by the store. If you are charged more than the displayed price, notify that seller right away." This is revealing in that it clearly presents issues for

²⁹ Michigan Citizen Action (hereinafter "MCA"), data available upon request.

³⁰ 445.353.

³¹ <http://www7.dleg.state.mi.us/orr/AdminCode.aspx?admincode=Department&Dpt=AC>.

³² http://www.michigan.gov/mdard/0,4610,7-125-2961_2968_4823-12359--,00.html.

³³ Calculated using appropriations bills since 2007, available at <http://www.michiganvotes.com>.

³⁴ DARD was formerly the "Department of Agriculture."

³⁵ The IPL rules were promulgated in 1979, available at http://www7.dleg.state.mi.us/orr/Files/AdminCode/6_10006_AdminCode.pdf.

consumers who do not remember the display price, which would be the case more often than not. Though the Michigan Attorney General is historically noted for being a leader in consumer protection, **nowhere do any of the Attorney General's consumer protection resources give consumers any advice on how to remember the "right" price.** This is likely because there is no reasonable way to expect average consumers to remember the display price of every item they pick up at the grocery store. Proponents of SRMA have suggested using Smartphones to scan barcodes or special scanners that retailers provide to check prices. However, what about people without Smartphones? What about the fact that most stores do not have these special scanners (and probably will not for a while)? Furthermore, these techniques are just as time consuming as taking photos of price displays, or writing down the price of every item you plan to purchase. This may be reasonable when a consumer purchases just a few items, but **suggesting that a consumer shopping for their family should track prices of hundreds of dollars worth of goods every time they go shopping is not just unreasonable, but insulting.**

iii. Lack of Consistency between Authorities

Despite the Attorney General and DARD sharing the responsibility to inform the public of their rights, the public is left with conflicting information. There is a discrepancy between the DARD rules and the SRMA / AG rules in regards to damages. According to the DARD webpage, if the consumer goes to court, they are entitled up to \$250.00 in damages plus \$300.00 in attorneys' fees.³⁶ On the other hand, the SRMA and the AG webpage say that the consumer may recover \$250.00 *for each day the violation occurred or actual damages, whichever is greater*, plus \$300 in attorneys' fees.³⁷ There is another inconsistency, where the DARD website directs people to file complaints with the AG or DARD, the AG website directs people to file complaints with DARD only. **It is increasingly evident that protecting and informing the public has taken a backseat in Governor Rick Snyder's administration.**

B. Most people opposed the Shopping Reform and Modernization Act before it was passed, and most people felt it would make them more vulnerable to being overcharged.

A February, 2011 poll by EPIC-MRA of 600 registered voters found that 51% of voters opposed the SRMA, while only 39% supported it.³⁸ This makes sense because **72% of Michiganders surveyed by MCA believed consumers would be more vulnerable to being overcharged absent the IPL.**³⁹ This is a legitimate concern because **when a retailer has failed to display a price on the shelf, you can no longer prove you were overcharged because there is no price sticker on the item itself.** A consumer literally has to sue the retailer to ensure compliance.

Furthermore,

- Eighty-nine percent of Michiganders surveyed by MCA were aware that IPL required individual price tags on retail items.⁴⁰

³⁶ Id.

³⁷ 445.322(2).

³⁸ http://www.mlive.com/politics/index.ssf/2011/01/poll_about_half_oppose_ending.html.

³⁹ MCA.

⁴⁰ MCA.

- Sixty-five percent of Michiganders surveyed by MCA liked having individual price tags on retail items, 12% did not, and at least a third of them had shopped for groceries in states where individual item pricing was not available.⁴¹ It is likely that many people who had experienced shopping where item pricing was not available were the same people that liked individual item pricing in Michigan.

In testimony by a voter who voted for Gov. Snyder, the problem is very well articulated:

- Grocery stores were already casual in their responsibility to item price;
- Grocery stores were equally casual in labeling shelf displays;
- **Without the checks and balances of the IPL, the SRMA translates into yet another insult to hard pressed Michigan families;**
- **While retailers will further line their pockets, Michigan families would feel the real impact of the repeal of IPL.**⁴²

Unfortunately, this voter was right.

C. The inclusion of the \$100,000 appropriation was a sham to ensure the Shopping Reform and Modernization Act was immune from public referendum, and the process behind the bill’s passage was an insult to the democratic process.

When the legislature passed the bill including a \$100,000 appropriation, it was known the AG would only have 30 days to spend the appropriation because the fiscal year would end just 30 days after the bill went into effect. Moreover, the AG spent just \$6,236.77 of the requested \$100,000 appropriation. There are two possible conclusions to be made from these facts. One has already been made clear—the AG has failed to adequately implement the consumer education program. The other is that **the appropriation was included in the bill in order to ensure that voters could not repeal the SRMA by public referendum.** Including an appropriation in a bill makes it “referendum-proof.” However, there was no need to include an appropriation in order for the AG to spend \$6,236.77 on enforcement. Indeed, the bill sponsors knew that a small \$5,000 to \$10,000 appropriation would have looked suspicious, so they included a much larger amount to give legitimacy to the inclusion of the appropriation.

Not only is the SRMA an attack on consumers, but an attack on the democratic process. This is especially clear in light of the fact that most Michiganders surveyed by MCA opposed repealing IPL. The SRMA’s sponsors and supporters knew this bill was unpopular with voters, so they made sure voters could not weigh in by including the ballot-proofing appropriation. It is also worth noting that the bill was pushed through very quickly, despite calls from many legislatures to slow down the process and allow for more public input.

D. The Shopping Reform and Modernization Act spurred job loss and wage reduction.

Supporters of the SRMA claimed the law would not hurt jobs because employees would simply be moved around, and greater resources would be dedicated to improve customer service

⁴¹ Id.

⁴² Suzanne Elms-Barclay, Michigan Resident – A BIG “NO” to the elimination of the Item-Pricing Law for Groceries: Testimony submitted to the House Commerce Committee (February 15, 2011).

and experience.⁴³ However, there is substantial evidence that employees were hurt and jobs were lost because of the SRMA. For example, according to leadership at UFCW Local 951, Meijer opened a new store in 2011, but union enrollment went down about 1000 members, while a new store opening would normally result in the hiring of new staff and thus new UFCW members. This is very strong evidence that **the SRMA caused workers to lose their jobs because this is an unprecedented drop in union membership in light of the fact that an additional Meijer was opened in Michigan.** Though this information is limited to Meijer, the following two sections shed light on this trend throughout all grocery stores and supercenters in Michigan. **Grocery store and supercenter employee wages dropped significantly immediately after the Shopping Reform and Moderni**

*i. Wage Loss in Grocery Stores*⁴⁴

In 2009, the minimum wage increased 4.9% from \$7.15 per hour to \$7.40, which is currently the minimum wage. In fourth quarter 2009, total grocery stores went up 3.2% from 2,988 million in fourth quarter 2008 to 3,022 million dollars, despite the fact that the number of grocery stores went down from 2,988 to 2,922. This means that the grocery store employee averaged a 3.2% increase in income in fourth quarter 2009.

In fourth quarter 2010, total grocery store wages went down 1.4% from \$351 million in fourth quarter 2009 to \$346 million. This decrease was likely because Michigan lost 1.4% of its total grocery stores between those periods. This decrease in total wages, after controlling for the decrease in total number of grocery store employees, actually translates into a \$6.18 increase in fourth quarter 2010 income per employee.

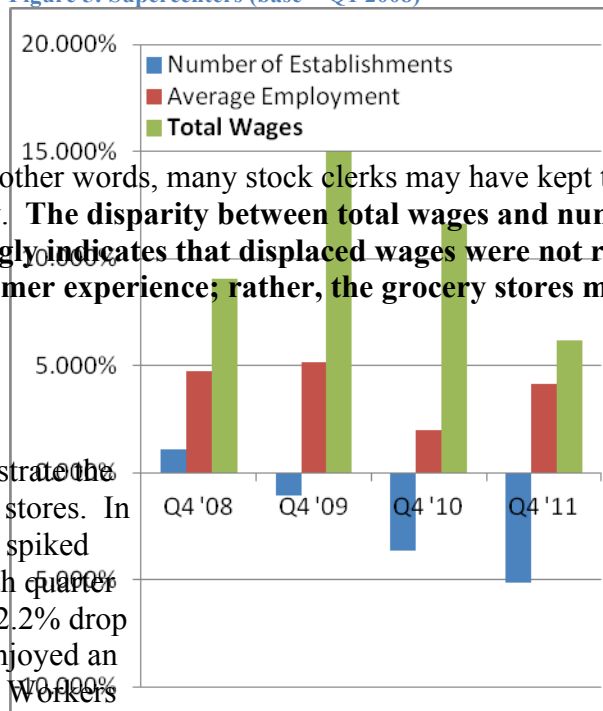
In fourth quarter 2011, the months immediately following the SRMA effective date, total wages dropped 3.5% from \$346 million to \$334 million when compared to fourth quarter 2010. Michigan lost only 1.4% of its grocery stores between those periods; thus, unlike 2010, the decrease in number of employees does not fully account for this wage loss, resulting in a \$136.60 wage loss per employee. However, it is most likely that stock clerks bore the brunt of this loss. If 12.5% of grocery store employees were stock clerks, they lost \$546.40 to \$1,092.80 in wages



⁴³ Rep. Lisa Posthumus Lyons: Testimony submitted to House Commerce Committee (February 15, 2011).

⁴⁴ According to the Bureau of Labor Market Information & Strategic Initiatives (BLMISI), grocery stores include retailers that are limited only to groceries. BLMISI is not able to divulge specific stores, but the grocery store category includes D & W, Harding's, and Hiller's Market, all stores investigated by Michigan Citizen Action.

Figure 3. Supercenters (base Q1 2009)



over a three month period.⁴⁵ In other words, many stock clerks may have kept their jobs, but their hours got cut very severely. **The disparity between total wages and number of Michigan grocery stores strongly indicates that displaced wages were not reinvested to create jobs that improve customer experience; rather, the grocery stores merely pocketed the extra profits.**

ii. Wage Loss in Supercenters⁴⁶

Supercenter patterns illustrate the same trend identified in grocery stores. In fourth quarter 2009, total wages spiked 5.9% from \$261 million in fourth quarter 2008 to \$275 million, despite a 2.2% drop in number of stores. Workers enjoyed an average wage increase of \$280. Workers enjoyed another \$7.00 wage increase in fourth quarter 2010, despite total wages going down. This matches the pattern in grocery stores, where controlling for the decrease in number of workers because of store closings translates into raises for the remainder of the workforce.

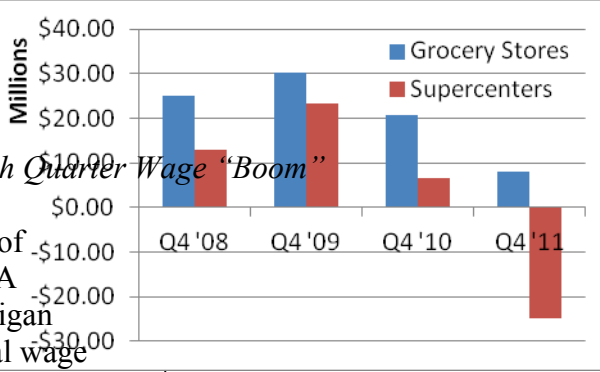
In fourth quarter 2011, there is the same kind of disproportionate wage loss experienced by grocery store employees. Employees lost an average of \$403 in fourth quarter 2011 wages. Stock clerks could have lost anywhere from \$1612 to \$3224 over the course of just 3 months.

This trend also can be easily identified in the general merchandise retail sector. Regardless of which employees directly experienced wage losses, **the drop in average employee wages across various retail sectors right after the Item Pricing Law was repealed illustrate that the legislature sold out Michigan workers so that those who were already well off could improve their bottom lines.**

⁴⁵ \$1,092.80 was calculated by multiplying the average wage reduction by 8, with the operating assumption being that the wage reduction affected only stock clerks, while \$546.40 was calculated by multiplying the average reduction by 8, then dividing by 2, with the operating assumption that half of the wage reduction affected stock clerks.

⁴⁶ BLMISI stated that these include the stores that carry groceries along with other items, such as clothes and home and office supplies. Again, BLMISI is not able to divulge specific stores, but supercenters include Wal-Mart, Meijers, Sam’s Club, and Costco. It is important to note that Sam’s Club and Costco were unaffected by the SRMA because wholesale membership clubs were exempt from the now repealed IPL.

Figure 6: Q4 Wage Boost (base = Q3 of respective year)



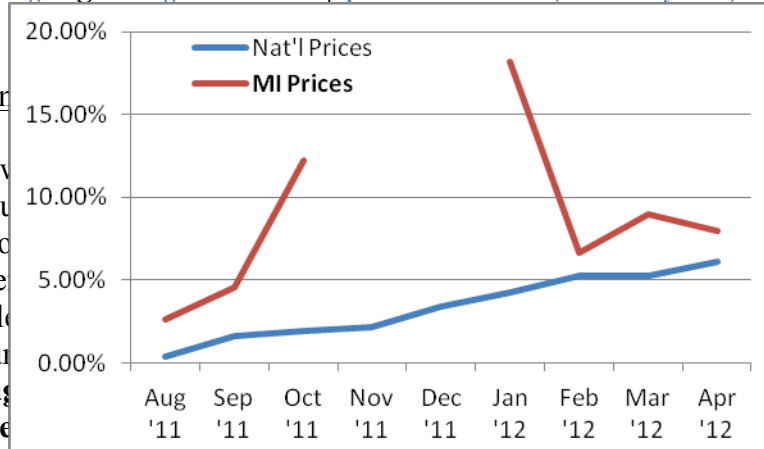
iii. The Elimination of the Fourth Quarter Wage “Boom”

Another important piece of evidence that indicates the SRMA damaged the well-being of Michigan workers is the fact that the annual wage “boom” that occurs in the fourth quarter in the retail sector was completely eliminated. Fourth quarter wages consistently spiked every year until the SRMA went into effect. **As soon as the SRMA went into effect, retail employees throughout the state suffered devastating losses in income.**

E. Repealing the Item Pricing Law

If Michigan workers were forced to give up hundreds or even thousands of dollars in wages, the loss could be mitigated if retailers passed the savings to consumers. However, **the passage of the SRMA did not lower prices for Michigan consumers.** The bill sponsors and supporters claimed the SRMA would directly save Michigan consumers \$2.2 billion because it would eliminate a “hidden tax” that the IPL imposed in the form of higher prices.^{47, 48, 49, 50} They also claimed that Michigan’s prices were on average 8% to 10% higher than states without IPL.⁵¹ From this, consumers were led to believe that passage of the SRMA would “correct” this price gap, and bring down prices of goods. However, Figure 7 clearly shows that **Michigan prices stayed consistently higher, and grew at a faster rate than the national average.**

Figure 7: Inflation Rates of Staples and Necessities (base = July 2011)



From this, consumers were led to believe that passage of the SRMA would “correct” this price gap, and bring down prices of goods. However, Figure 7 clearly shows that **Michigan prices stayed consistently higher, and grew at a faster rate than the national average.**

⁴⁷ Anderson Economic Group (hereinafter “AEG”) on HB 4158, Michigan’s Item Pricing Law - The Price Tag for Retailers and Consumers pp. 3 (December 11, 2010): Testimony submitted to the House Commerce Committee (February 01, 2011).

⁴⁸ Rep. Lisa Posthumus Lyons: Testimony submitted to the Michigan House Commerce Committee (February 01, 2011); Testimony submitted to the Michigan Senate Economic Development Committee (February 23, 2011).

⁴⁹ “This pricing requirement has been a hidden tax to consumers since its inception.” Edward Deeb, President of Michigan Business & profession Association and the Michigan Food and Beverage Association on HB 4158: Testimony submitted to the Michigan House Commerce Committee (February 01, 2011).

⁵⁰ Jim Hallan, Michigan Retailers Association, Coalition for Retail Pricing Modernization pp. 9: submitted to the Michigan House Commerce Committee (February 01, 2011).

⁵¹ AEG pp. 2.

Figure 8: Does \$0.88 include the cardboard?



Furthermore, the SRMA went into full effect in September 2011. Michigan Prices increased from August to September, and spiked greatly in October, while the national rate of increase in prices in those months was much less dramatic. This indicates that the **SRMA did nothing in the way of lowering or slowing the rate of increase in prices. There has been no noticeable “correction” of prices in Michigan.**

G. Shelves in stores have deteriorated

Rep. Lyons intended to make the shopping experience more efficient and easier for consumers. However, sometimes **stores have resorted to putting entire boxes on the shelves, and shelves are often found in disarray, rather than neatly stocked.** It was promised that retailers would refocus their efforts on people. How can this be true when shelves are not even being stocked properly?

H. Consumers are less likely to know when items are on sale since stores are not required to inform you.

A retailer is prohibited from charging a price higher than a displayed price, but a retailer may charge a price lower than the displayed price.⁵² There is no obligation to update a shelf tag when an item goes on sale. Consumers should know when an item is marked down so they can take advantage of the savings and buy two bread loaves instead of one, for example.

At first glance, it may seem that retailers do not need to be required to update the shelf tag when they lower their prices—why would retailers have sales if they do not want their customers to know about them? The answer is that **retailers only want certain consumers to know about their sales.** This practice is known as price discrimination—charging different groups of people different prices, usually based on their income. If a store does not update its shelves to reflect sale prices in ads, only those who have read the ads would know about the sale. Where a shelf tag is not updated, the savviest shoppers will still stock up on the sale item, while most people will never even know about the opportunity to save. Even worse, consumers unaware of a sale may believe that the store accidentally undercharged them when, in reality, they were charged the sale price without being given the opportunity to fully take advantage of the benefits of the sale price.

Retailers benefit from price discrimination because those who did not stock up on an item at the sale price have to buy the same item again at a non-sale price sooner and more often than they otherwise would have, and this can really add up to a lot of extra profits for retailers, especially large ones. In other words, less people will buy the same item at the sale price, and more people will buy it at the non-sale price. **There is nothing wrong with higher profits, but manipulating consumers into buying at higher prices is a breach of trust.**

⁵² Michigan Retailers Association, *The “New” Michigan Shopping Reform and Modernization Act*, http://www.retailers.com/mra/forms/item_pricing_summary_and_analysis.pdf

V. Conclusion: Michigan Legislators proved their allegiance to improving the lives and profits of those who are well off at the expense of consumers and the working class.

In sum, our investigation tells us more about our legislature than the grocery business.

A. CONSUMERS HAVE BEEN DECEIVED

We compared the numbers from our study with those of the Consumer Price Index, and, contrary to the promises of the bill's sponsors, prices did not come down in any discernible way for Michigan shoppers. Not only did shoppers fail to save money, their shopping experiences have been degraded. Without individually-priced items, shoppers have lost transparency and accountability at the register—the purpose for enacting the now-repealed IPL in the first place. And now that stores no longer employ Michiganders to regularly manage the shelves of Michigan grocery stores, the consumer often experiences a chaotic shopping experience, where items are often stocked in disarray and prices are absent or incorrect.

B. EMPLOYEES HAVE LOST MILLIONS IN WAGES

In 2011 and 2012, Michigan-based Spartan Stores (corporate parent of D&W Fresh Foods and other stores) reported \$10 million in labor cost savings, which means fewer hours and/or fewer workers. Surely, eliminating labor-driven consumer protection requirements had much to do with these savings. Data like this, coupled with the above findings, leads to the inescapable conclusion that there are fewer dollars in working class pockets thanks to SRMA.

C. LEGISLATORS VOTED FOR PROFITS AT THE EXPENSE OF WORKING FAMILIES.

If employees lost wages and shoppers did not save, then where did the money go? The only ones left are Michigan grocery and retail store owners who applied these savings directly to their bottom line. Of course, MCA does not begrudge companies' efforts to save money and increase shareholder value; that's the obligation of a private corporation. If you were one of the corporations that had to pay people to price each item, of course you would support the SRMA. Indeed, many of them lobbied heavily to get it passed.

Bolstering the bottom line of already profitable corporations should not be a priority for state legislators during these tough economic times. With record unemployment and a widening income gap, the way in which Governor Snyder and legislative leadership rammed through the SRMA can only be described as obscene. No matter how you slice it, the SRMA took money out of the working people's pockets and put it into the coffers of those least in need. What is worse is that the legislature did this despite public opposition to the SRMA.

Upon the anniversary of the SRMA's implementation, MCA has concluded that it stands out as a glaring example of misplaced Lansing priorities that alienate Michiganders from their government. The SRMA was passed with very little public input and brought zero benefits and greater economic uncertainty Michigan consumers and workers. Today, it is clear that the agencies charged with enforcing the requirements of the SRMA have fallen short. If retailers refuse to pass savings on to consumers and employees, and legislators refuse to pass consumer-friendly legislation, the Attorney General and Department of Agriculture and Rural Development need to step up and do their part to ensure that consumers are being protected.