

נספח מס' 1

חוק סימון מחירים של מדינות האיחוד האירופי

DIRECTIVE 98/6/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 16 February 1998****on consumer protection in the indication of the prices of products offered to consumers**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 129a(2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189b of the Treaty ⁽³⁾, in the light of the joint text approved by the Conciliation Committee on 9 December 1997,

- (1) Whereas transparent operation of the market and correct information is of benefit to consumer protection and healthy competition between enterprises and products;
- (2) Whereas consumers must be guaranteed a high level of protection; whereas the Community should contribute thereto by specific action which supports and supplements the policy pursued by the Member States regarding precise, transparent and unambiguous information for consumers on the prices of products offered to them;
- (3) Whereas the Council Resolution of 14 April 1975 on a preliminary programme of the European Economic Community for a consumer protection and information policy ⁽⁴⁾ and the Council Resolution of 19 May 1981 on a second programme of the European Economic Community for a consumer protection and information policy ⁽⁵⁾ provide for the establishment of common principles for indicating prices;

⁽¹⁾ OJ C 260, 5. 10. 1995, p. 5 and

OJ C 249, 27. 8. 1996, p. 2.

⁽²⁾ OJ C 82, 19. 3. 1996, p. 32.

⁽³⁾ Opinion of the European Parliament of 18 April 1996 (OJ C 141, 13. 5. 1996, p. 191). Council Common Position of 27 September 1996 (OJ C 333, 7. 11. 1996, p. 7) and Decision of the European Parliament of 18 February 1997 (OJ C 85, 17. 3. 1997, p. 26). Decision of the European Parliament of 16 December 1997 and Decision of the Council of 18 December 1997.

⁽⁴⁾ OJ C 92, 25. 4. 1975, p. 1.

⁽⁵⁾ OJ C 133, 3. 6. 1981, p. 1.

- (4) Whereas these principles have been established by Directive 79/581/EEC concerning the indication of prices of certain foodstuffs ⁽⁶⁾ and Directive 88/314/EEC concerning the indication of prices of non-food products ⁽⁷⁾;

- (5) Whereas the link between indication of the unit price of products and their pre-packaging in pre-established quantities or capacities corresponding to the values of the ranges adopted at Community level has proved overly complex to apply; whereas it is thus necessary to abandon this link in favour of a new simplified mechanism and in the interest of the consumer, without prejudice to the rules governing packaging standardisation;

- (6) Whereas the obligation to indicate the selling price and the unit price contributes substantially to improving consumer information, as this is the easiest way to enable consumers to evaluate and compare the price of products in an optimum manner and hence to make informed choices on the basis of simple comparisons;

- (7) Whereas, therefore, there should be a general obligation to indicate both the selling price and the unit price for all products except for products sold in bulk, where the selling price cannot be determined until the consumer indicates how much of the product is required;

- (8) Whereas it is necessary to take into account the fact that certain products are customarily sold in quantities different from one kilogramme, one litre, one metre, one square metre or one cubic metre; whereas it is thus appropriate to allow Member States to authorise that the unit price refer to a different single unit of quantity, taking into account the nature of the product and the quantities in which it is customarily sold in the Member State concerned;

- (9) Whereas the obligation to indicate the unit price may entail an excessive burden for certain small retail businesses under certain circumstances; whereas Member States should therefore be allowed to refrain from applying this obligation during an appropriate transitional period;

⁽⁶⁾ OJ L 158, 26. 6. 1979, p. 19. Directive as last amended by Directive 95/58/EC (OJ L 299, 12. 12. 1995, p. 11).

⁽⁷⁾ OJ L 142, 9. 6. 1988, p. 19. Directive as last amended by Directive 95/58/EC (OJ L 299, 12. 12. 1995, p. 11).

- (10) Whereas Member States should also remain free to waive the obligation to indicate the unit price in the case of products for which such price indication would not be useful or would be liable to cause confusion for instance when indication of the quantity is not relevant for price comparison purposes, or when different products are marketed in the same packaging;
- (11) Whereas in the case of non-food products, Member States, with a view to facilitating application of the mechanism implemented, are free to draw up a list of products or categories of products for which the obligation to indicate the unit price remains applicable;
- (12) Whereas Community-level rules can ensure homogenous and transparent information that will benefit all consumers in the context of the internal market; whereas the new, simplified approach is both necessary and sufficient to achieve this objective;
- (13) Whereas Member States must make sure that the system is effective; whereas the transparency of the system should also be maintained when the euro is introduced; whereas, to that end, the maximum number of prices to be indicated should be limited;
- (14) Whereas particular attention should be paid to small retail businesses; whereas, to this end, the Commission should, in its report on the application of this Directive to be presented no later than three years after the date referred to in Article 11(1), take particular account of the experience gleaned in the application of the Directive by small retail businesses, *inter alia*, regarding technological developments and the introduction of the single currency; whereas this report, having regard to the transitional period referred to in Article 6, should be accompanied by a proposal,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

The purpose of this Directive is to stipulate indication of the selling price and the price per unit of measurement of products offered by traders to consumers in order to improve consumer information and to facilitate comparison of prices.

Article 2

For the purposes of this Directive:

- (a) *selling price* shall mean the final price for a unit of the product, or a given quantity of the product, including VAT and all other taxes;
- (b) *unit price* shall mean the final price, including VAT and all other taxes, for one kilogramme, one litre, one metre, one square metre or one cubic metre of the product or a different single unit of quantity which is widely and customarily used in the Member State concerned in the marketing of specific products;
- (c) *products sold in bulk* shall mean products which are not pre-packaged and are measured in the presence of the consumer;
- (d) *trader* shall mean any natural or legal person who sells or offers for sale products which fall within his commercial or professional activity;
- (e) *consumer* shall mean any natural person who buys a product for purposes that do not fall within the sphere of his commercial or professional activity.

Article 3

1. The selling price and the unit price shall be indicated for all products referred to in Article 1, the indication of the unit price being subject to the provisions of Article 5. The unit price need not be indicated if it is identical to the sales price.
2. Member States may decide not to apply paragraph 1 to:
 - products supplied in the course of the provision of a service,
 - sales by auction and sales of works of art and antiques.
3. For products sold in bulk, only the unit price must be indicated.
4. Any advertisement which mentions the selling price of products referred to in Article 1 shall also indicate the unit price subject to Article 5.

Article 4

1. The selling price and the unit price must be unambiguous, easily identifiable and clearly legible. Member States may provide that the maximum number of prices to be indicated be limited.
2. The unit price shall refer to a quantity declared in accordance with national and Community provisions.

Where national or Community provisions require the indication of the net weight and the net drained weight for certain pre-packed products, it shall be sufficient to indicate the unit price of the net drained weight.

Article 5

1. Member States may waive the obligation to indicate the unit price of products for which such indication would not be useful because of the products' nature or purpose or would be liable to create confusion.

2. With a view to implementing paragraph 1, Member States may, in the case of non-food products, establish a list of the products or product categories to which the obligation to indicate the unit price shall remain applicable.

Article 6

If the obligation to indicate the unit price were to constitute an excessive burden for certain small retail businesses because of the number of products on sale, the sales area, the nature of the place of sale, specific conditions of sale where the product is not directly accessible for the consumer or certain forms of business, such as certain types of itinerant trade, Member States may, for a transitional period following the date referred to in Article 11 (1), provide that the obligation to indicate the unit price of products other than those sold in bulk, which are sold in the said businesses, shall not apply, subject to Article 12.

Article 7

Member States shall provide appropriate measures to inform all persons concerned of the national law transposing this Directive.

Article 8

Member States shall lay down penalties for infringements of national provisions adopted in application of this Directive, and shall take all necessary measures to ensure that these are enforced. These penalties must be effective, proportionate and dissuasive.

Article 9

1. The transition period of nine years referred to in Article 1 of Directive 95/58/EC of the European Parliament and of the Council of 29 November 1995

amending Directive 79/581/EEC on consumer protection in the indication of the prices of foodstuffs and Directive 88/314/EEC on consumer protection in the indication of the prices of non-food products ⁽¹⁾ shall be extended until the date referred to in Article 11(1) of this Directive.

2. Directives 79/581/EEC and 88/314/EEC shall be repealed with effect from the date referred to in Article 11 (1) of this Directive.

Article 10

This Directive shall not prevent Member States from adopting or maintaining provisions which are more favourable as regards consumer information and comparison of prices, without prejudice to their obligations under the Treaty.

Article 11

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 18 March 2000. They shall forthwith inform the Commission thereof. The provisions adopted shall be applicable as of that date.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field governed by this Directive.

3. Member States shall communicate the provisions governing the penalties provided for in Article 8, and any later amendments thereto.

Article 12

The Commission shall, not later than three years after the date referred to in Article 11(1), submit to the European Parliament and the Council a comprehensive report on the application of this Directive, in particular on the application of Article 6, accompanied by a proposal.

⁽¹⁾ OJ L 299, 12. 12. 1995, p. 11.

The European Parliament and the Council shall, on this basis, re-examine the provisions of Article 6 and shall act, in accordance with the Treaty, within three years of the presentation by the Commission of the proposal referred to in the first paragraph.

Article 13

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 14

This Directive is addressed to the Member States.

Done at Brussels, 16 February 1998.

For the European Parliament

The President

J. M. GIL-ROBLES

For the Council

The President

J. CUNNINGHAM

נספח מס' 2

חוק סימון מחירים של אירלנד

S.I. No. 639 of 2002

European Communities (Requirements to Indicate Product Prices) Regulations 2002

I, Mary Harney, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998¹, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (Requirements to Indicate Product Prices) Regulations 2002.

(2) These Regulations shall come into operation on the 1st day of March 2003.

2. (1) In these Regulations -

“advertisement” means an advertisement promoting the sale of a product but does not include an advertisement promoting the sale of a product by means of a distance contract, catalogue, price list, container or label;

“consumer” means a natural person who buys a product for purposes that do not fall within the sphere of his or her commercial or professional activity;

“Directive” means Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers;

“Director” means the Director of Consumer Affairs;

“distance contract” means a contract for the sale of a product entered into by a trader and a consumer by any means, or in any manner, not involving those persons being present together;

“itinerant trader” means a trader who, as a pedestrian, or from a train, aircraft, vehicle, ship, stall, barrow or other mobile sales unit, offers products to consumers other than by means of pre-printed material;

¹ O.J. No. L 80, 18.3.98, p. 27

“net drained weight” means the weight of a solid food product contained in a liquid medium (within the meaning of paragraph 4 of Article 8 of Directive 2000/13/EC of the European Parliament and of the Council relating to the labelling, presentation and advertising of foodstuffs²);

“premises” includes any building, shop, store, dwelling, kiosk, temporary construction, or an area in any of the foregoing in which trading is carried on pursuant to a franchise or concession;

“products sold in bulk” means products which are not pre-packaged and are measured in the presence of the consumer;

“selling price” means the final price in euro, including value-added tax and all other taxes, for a unit of a product, or a given quantity of a product;

“trader” means any natural or legal person who sells or offers for sale products which fall within the sphere of his or her commercial or professional activity;

“unit price” means the final price in euro, including value-added tax and all other taxes, for one kilogram, one litre, one metre, one square metre or one cubic metre of a product or, in respect of a product mentioned in the first column of the Schedule, the final price in euro, including value-added tax and all other taxes, for the number of units specified in the second column of the Schedule opposite such mention.

(2) In these Regulations -

(a) a reference to a Regulation or the Schedule is a reference to a Regulation of, or the Schedule to, these Regulations, unless it is indicated that reference to some other provision is intended, and

(b) a reference to a paragraph or a subparagraph is a reference to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

(3) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Directive.

3. These Regulations do not apply to -

(a) products supplied in the course of the provision of a service, and

(b) sales by auction or sales of works of art and antiques.

² O.J. No. L 109, 6.5.2000, p. 29

4. (1) Subject to paragraph (2), where a trader indicates that a product is or may be for sale to a consumer, he or she shall indicate the selling price of that product in accordance with these Regulations.

(2) Paragraph (1) does not apply in respect of -

(a) products sold in bulk, or

(b) an advertisement for a product.

(3) A person who contravenes this Regulation is guilty of an offence.

5. (1) Subject to paragraphs (2) and (3) and (4), where a trader indicates that a product is or may be for sale to a consumer, he or she shall indicate the unit price of the product in accordance with these Regulations.

Paragraph (1) does not apply in relation to a product -

(a) which is pre-packaged with a content equal to or less than 50 grams or 50 millilitres;

(b) the selling price of which is not related to the quantity of that product being offered for sale;

(c) the unit price of which is identical to its selling price;

(d) the selling price of which has been reduced from the usual price at which it is sold on account of its damaged condition or the danger of its deterioration;

(e) which comprises an assortment of different items sold in a single package;

(f) which is sold from an automatic dispenser or a vending machine from which different products are offered for sale, or

(g) which is sold other than in bulk -

(i) in a premises in which the trader does not make use of equipment for printing shelf edge labels or equipment for point of sale scanning, or

by an itinerant trader.

Any question as to whether the selling price of a product is related to the quantity of that product being offered for sale shall be determined by the Director.

Paragraph (1) applies in relation to an advertisement for a product except where –

- (a) the selling price of the product is not indicated in the advertisement, or
- (b) the advertisement is:
 - (i) solely aural,
 - (ii) broadcast on television, or
 - (iii) shown in a cinema.

A person who contravenes this Regulation is guilty of an offence.

6. (1) A trader shall ensure that the indication of the selling price and where appropriate, the unit price of a product offered by him or her to consumers or to prospective consumers is –

- (a) unambiguous, easily identifiable as referring to that product,
- (b) clearly visible and legible to prospective customers, and
- (c) in proximity to the product or, in the case of a product for sale by distance contract, to the description of the product.

(2) Where a trader offers products for sale at less than the selling price or the unit price previously applicable, the indication of the reduced prices in accordance with these Regulations may be effected by reference to a reduction of the prices by a fraction or percentage of the previous prices indicated by a general notice or any other visible means if the particulars of the reduction are -

- (a) unambiguous and easily identifiable as referring to those products; and
 - (b) clearly visible and legible to prospective consumers.
- (3) A person who contravenes paragraph (1) is guilty of an offence.

7. (1) Where a pre-packaged solid food product is offered for sale in a liquid medium -

(a) it shall be sufficient to indicate in accordance with these Regulations the unit price of the net drained weight; and

(b) if the unit price of the net weight is also indicated in accordance with these Regulations, the trader concerned shall ensure that it shall be clear to which weight each unit price refers.

A person who contravenes this Regulation is guilty of an offence.

8. (1) Where, in the opinion of the Director, a trader is contravening or has contravened these Regulations, the Director may apply to the Circuit Court for an order requiring the trader to do or to refrain from doing anything the doing or refraining from the doing of which is, in the opinion of the Director, necessary or expedient to ensure compliance by the trader with these Regulations.

On the hearing of an application under paragraph (1) ("an application") the Circuit Court may make an order under that paragraph or an order refusing the application or making such other provision as it considers appropriate.

The Director shall cause notice of the intention to make an application to be given to the trader concerned and to be published in *Iris Oifigiúil* and in at least 2 national newspapers and in any other manner that the Circuit Court may direct.

Every person claiming to have an interest in an application shall be entitled to appear before and be heard by the Circuit Court on the hearing of the application.

On an application, it shall not be necessary for the Director to prove –

actual loss or damage, or

recklessness or negligence on the part of the trader concerned.

On an application, the onus of proving compliance with these Regulations shall be on the trader concerned.

On an application, the Circuit Court shall take account of all the interests involved and in particular the public interest.

Paragraph (1) is without prejudice to the right of a consumer to invoke the provisions of these Regulations in any case before a court.

Without prejudice to the power of the Circuit Court to enforce an order made under this section, a person who contravenes such an order is guilty of an offence.

9. (1) The Director may appoint persons to be authorised officers for the purposes of these Regulations.

(2) An authorised officer when exercising a power under these Regulations shall, if so requested by a person affected, produce to the person evidence in writing of his or her appointment as an authorised officer.

(3) The Director may revoke the appointment of an authorised officer.

(4) An authorised officer may, for the purposes of these Regulations and the Directive -

(a) at all reasonable times enter a premises, if there are reasonable grounds for believing that any trade, business or profession involving the sale of products to consumers is carried on there and search the premises and inspect any products, indications of selling prices or unit prices or records found there,

(b) secure for later inspection any such records or any part of the premises in which such records are kept or there are reasonable grounds for believing that such records are kept,

(c) inspect and take copies of, or of extracts from, any such records (including in the case of such records in a non-legible form a copy of, or of an extract, from such records in a permanent, legible form),

(d) require any person who is carrying on the trade, business or profession or any of his or her employees to produce to the officer any such records relating to the trade business or profession in his or her possession or procurement and, in the case of any such records in a non-legible form, to reproduce them in a permanent, legible form or to give to the officer such information within his or her knowledge or procurement as he or she may reasonably require in relation to any entries in such records,

(e) inspect and copy or extract information from any data (within the meaning of the Data Protection Act 1988 (No. 25 of 1988)) found or produced to the officer under this Regulation,

(f) remove and retain any such records for such period as may be reasonable for further examination and copying,

(g) require a person found on the premises to give to the officer any information within his or her knowledge or procurement which the officer may reasonably require in regard to the trade, business or profession being carried on there or in regard to the persons carrying it on or their employees,

(h) require any person by or on whose behalf data equipment is or has been used on the premises or any person having charge of, or otherwise concerned with the operation of, such data equipment or any associated apparatus or material, to afford to the officer all reasonable assistance in relation thereto,

(i) require any other person employed in connection with the trade, business or profession to give to the officer any information within his or her knowledge or procurement which the officer may reasonably require in regard to the trade, business or profession and to produce to the officer any records which are in that person's possession or control.

(5) An authorised officer shall not, without the consent of the occupier, enter a premises, or a part of a premises, used as a dwelling unless he or she has obtained a warrant from the District Court under Regulation 10 authorising such entry.

(6) An authorised officer may, if he or she considers it necessary, be accompanied by a member of the Garda Síochána when exercising any powers conferred on an authorised officer by these Regulations.

(7) A person who obstructs or interferes with an authorised officer in the exercise of his or her powers under these Regulations or gives to an authorised officer information that is, to his or her knowledge, false or misleading or who does not comply with a requirement of such an officer under these Regulations is guilty of an offence.

10. If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for believing that information required by an authorised officer under these Regulations is held on any premises, or a part of any premises, occupied as a dwelling, the judge may issue a warrant authorising an authorised officer, accompanied, if appropriate, by other authorised officers, or a member or members of the Garda Síochána at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter, if need be by the use of reasonable force, the premises or the part of the premises and there exercise all or any of the powers conferred on an authorised officer under Regulation 9.

11. Where an offence under these Regulations has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate is guilty of an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

12. (1) An offence under these Regulations may be prosecuted by the Director.

(2) A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding €3,000.

13. The following Regulations are revoked:

the Retail Prices (Potatoes) Display Order 1977 (S.I. No. 11 of 1977),

the Retail Prices (Food) Display Order 1977 (S.I. No. 127 of 1977),

(c) the European Communities (Requirements to Indicate Product Prices) Regulations 2001 (S.I. No. 422 of 2001).

SCHEDULE

Regulation 2

Relevant units of quantity for specific products for the purpose of the definition of
“unit price” in Regulation 2

PRODUCT	UNITS OF QUANTITY
Wines, sparkling wine, liquor wine, fortified wine	75cl
Spirits as defined by Article 1 of Council Regulation (EEC) No.1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks	70cl

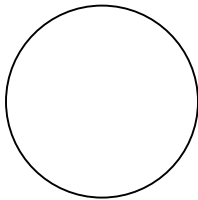
GIVEN under my Official Seal

this 20th of December 2002

Mary Harney

Minister for Enterprise, Trade and

Employment



EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations replace the European Communities (Product Prices) Regulations 2001, S.I. 422 of 2001, which gave effect to Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers. The Regulations apply to most products offered for sale by traders to consumers. Subject to the exceptions specified, where traders indicate that a product is or may be for sale to consumers, they are required to indicate the selling price and the unit price of that product in accordance with the provisions of the Regulations. The indication of the selling price and of the unit price must be clearly visible. The Regulations are enforced by the Director of Consumer Affairs.

P.N. 12656

Price € 3.05 Postage €

נספח מס' 3

**דו"ח על כללי שימוש במערכות סורקים ע"י קמעונאים
וסיטונאים באירלנד**

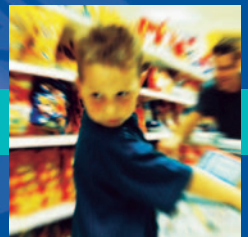
**Ireland: Scanning Code of Practice for Retailers and
Wholesalers, European Article Numbering (EAN)
and Office of the Director of Consumer Affairs
(ODCA)**

SCANNING CODE OF PRACTICE FOR RETAILERS AND WHOLESALERS

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> INTRODUCTION

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- III > The Scanning Code of Practice for Retailer and Wholesalers was produced by the Retail and Wholesale members of EAN Ireland.

The Scanning Code of Practice outlines procedures for the use of bar coding and scanning in retail and wholesale outlets. The procedures described are not legal requirements but are strongly recommended by EAN Ireland and are based on the practical experience of retailers.

THE PRICE SEEN IS THE PRICE PAID

The basic premise to the Scanning Code of Practice is that the price displayed on the shelf edge label equals the price charged at the checkout.

This is a safeguard for the consumer and its successful implementation will ensure that consumer confidence in scanning is maintained.

Adherence to these procedures will also help retailers to establish and maintain a good ongoing relationship with Inspectors from the Office of the Director of Consumer Affairs.

The Scanning Code of Practice has been discussed with the Department of Enterprise, Trade and Employment and is endorsed by the Office of the Director of Consumer Affairs.

EAN Ireland retains responsibility for the Scanning Code of Practice.



> ENDORSEMENT

FROM THE DIRECTOR OF CONSUMER AFFAIRS

ENDORSEMENT FROM THE DIRECTOR OF CONSUMER AFFAIRS • EAN007>53915092013



III > Scanning at retail level was first introduced in Ireland more than seventeen years ago, and is now being used in over 2,000 grocery retail outlets throughout the country. The code has involved a major change in how goods are presented and sold in retail outlets.

In December 2002, the Tanaiste signed the European Communities (Requirements to Indicate Product Prices) Regulations 2002 into law. The new Regulations, came into effect on 1st March 2003. They replaced the 2001 Regulations and were introduced because the original legislation needed modifications to make them clearer and more easily enforceable. The 2002 Regulations apply to all goods including basic foodstuffs and household items. These Regulations place the onus on retailers to provide clear and unambiguous information as to what price they are charging the consumer for any given product. Unit pricing also makes it easier for the consumer to make accurate and speedy price comparisons between competing products, which are sold by quantity. The new Regulations apply to all traders whether they are selling in the local store, by mail-order catalogue or over the internet.

I am pleased that particular emphasis is being given to the requirements of the Product Prices legislation in the Code.

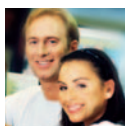
I believe that the EAN Ireland Scanning Code of Practice for Retailers and Wholesalers has been and will continue to be a major factor in ensuring that scanning is accepted. Under the code, procedures have been put in place to protect the customer, with subscribers to the code being required to have systems in place to ensure that:

- > the price seen is the price paid
- > price information is provided at the location of the product (or on the product), at the cash point and on the till receipt.

Of course, it is one thing to have systems - it is another to have them work. I am pleased to see that there are procedures for investigating complaints and would hope that as time goes on we will see fewer and fewer complaints about incorrect charging. In this regard there should never be an acceptable level of error. Indeed my office is actively striving to ensure that the consumer is not misled or overcharged. It is my belief that co-operation between ODCA and EAN Ireland will deliver a better deal to the customer with consequent satisfaction to the retailer.

Finally, I would like to pay tribute to all at EAN Ireland for their work in promoting and developing the Code.

Carmel Foley
Director of Consumer Affairs



>PRICE DISPLAY

PRICE DISPLAY • EAN007>53915092013456.ITF005.EAN007>5391509201345



III > REGULATIONS ON PRICE DISPLAY

According to Statutory Instrument S.I. 639 of 2002, the European Communities (Requirements to Indicate Product Prices) Regulations 2002, it is a legal obligation to indicate not only the selling price of a product offered to consumers, but its unit price. The unit price, in simple terms, is the final selling price of an item, including all applicable taxes, stated in the most appropriate standard measure such as kilogram, litre or metre for example.

The function of these Regulations is to enable the consumer to make valid comparisons between similar products. The Regulations should improve consumer protection by giving greater price transparency.

In scanning stores the majority of items are not individually priced and shelf edge labels are the most commonly used method to indicate this information.

IN BRIEF S.I. 639 STIPULATES THAT:

- > Where a product is or may be for sale, the selling price of that product shall be indicated.
- > Where a product is or may be for sale, the unit price of that product shall be indicated.
- > The selling price and/or unit price (if appropriate) of a product must be indicated in an unambiguous manner, be easily identifiable as relating to the product, be clearly visible and legible to prospective customers.
- > The indication of the selling price and unit price should be in proximity to the product.

Certain products, services and methods of sale and packaging are exempt from these regulations. Full details of these exemptions are outlined in S.I. 639. An offence under these Regulations may be prosecuted by the Director of Consumer Affairs and a person so guilty is liable on summary conviction to a fine not exceeding €3,000. Copies of S.I. 639 of 2002 may be obtained from the Government Publications Office (see page 16 for contact details).

The information content of shelf-edge labels must be clear and concise. Item description, size/weight should be given in addition to the total price and unit price. The position of shelf edge labels should relate to the item by fixing them firmly in place either by shelf edge design or by use of an appropriate adhesive or through use of tags which are not easily moved.

OUT OF STOCK

If a particular item is out of stock, leaving a gap on the shelf, the space should not be filled with another item unless the shelf edge label is changed in advance. If an item is out of stock it is suggested that a label stating "Sorry out of stock" be placed over the shelf edge label.



> DISPLAY UNITS AND SHELF EDGE LABELS

DISPLAY UNITS AND SHELF EDGE LABELLING • EAN007>53915092013456.ITF005.EAN



■ ■ ■ > Considerable time and investment has been made in systems to ensure there is a shelf edge label on display for every product. Currently in use are a range of plastic shelf edge strips to hold labels, that are designed and made to suit most variations of shelves, racks, displays or stands ensuring the correct positioning of the shelf edge labels in relation to the products they represent.

To continue to maintain the highest possible standards of price display, any shelves, stands, racks or coolers used, must come fitted with the facility to hold shelf edge labels. There are several considerations that need to be addressed by the manufacturers and suppliers of these display units to achieve this successfully.

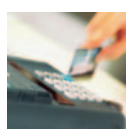
THESE ARE:

- > 1. A shelf edge label holder should accommodate most variations of shelf edge labels.
- > 2. For refrigerated units the shelf edge label holder must be able to withstand the environment, normal use and maintenance of the unit.
- > 3. The shelf-edge label holders should always harmonise with the style and finish of the display unit.
- > 4. Free standing display systems made of a paperboard based material must have a facility for shelf edge labels.
- > 5. Display systems that use peg hooks or euro hooks must have the facility to display a shelf edge label at the front of the product being sold. Any other pricing system used with this merchandising system should be discussed and agreed with the retailer.

The design of any display system should allow the shelf edge label to be positioned correctly ensuring that the customer can see the information clearly and associate it with the corresponding product.

In the case of a display unit where it is not possible to apply shelf edge labels, a store price list must be visible and accessible to consumers. This is applicable to display units typically used for the sale of greeting cards and confectionery items.

If the size of an item or its method of display make it impossible to display a shelf-edge label or other price indication which can be clearly related to that item then the item itself should be price marked.



> PRICE INCREASES

PRICE INCREASES • EAN007>53915092013456.ITF005.EAN007>53915092013456



- Price increases should not be applied during trading hours except in exceptional circumstances. These circumstances could include the correction of a genuine mistake, abnormal circumstances on a particular trading day or where the trading pattern makes it impossible e.g. 24 hour stores.

When implementing a price increase during trading hours, staff must ensure that the shelf-edge label price is increased before the computer file price is increased. This will ensure that customers are not charged a higher price than that indicated when the customer selected the item.

All price increases effected outside trading hours should be checked to ensure that shelf-edge prices and computer prices are in line at the start of the trading day.

Adequate notice should be given to store management of price increases applied by central management. This is to ensure that price and label management at store level can be carried out effectively.

In the event of a price error, information identifying the cause of an error may be required by inspectors from the Office of the Director of Consumer Affairs or by EAN Ireland. Scanning systems should record all price changes implemented, including dates and times, for error identification and audit purposes.



> PRICE DECREASES

PRICE DECREASES • EAN007>53915092013456.ITF005.EAN007>5391515092013



III > Price decreases may be applied at any time but are best implemented outside of trading hours.

Price decreases effected outside of trading hours should be checked to ensure that shelf-edge label prices and computer prices are in line at the start of the trading day.

Price decreases effected during trading hours must ensure that the computer file price decreases before the shelf-edge label price is decreased. This ensures that customers are not charged a higher price than that indicated when the item was selected.

Adequate notice should be given to store management of price decreases applied by central management. This is to ensure that price and label management at store level can be carried out effectively.

STORE POLICIES AND PROCEDURES

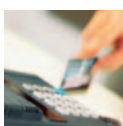
In order to protect Customers interests and in an effort to ensure that "The price seen is the price paid" it is very important that all procedures relating to the production, positioning, changing and regular checking of shelf edge labels are documented as store policies. In addition it is vital that the completion of these checks are monitored and recorded on a regular basis.

Specific attention is required to vulnerable areas where experience has shown that pricing errors are most likely to occur. These areas include:

- > Shelf-edge labels for promotion items
- > Local prices for items where store management can alter centrally communicated prices
- > Products which are price marked at source.

MULTIPACKS

Retailers must ensure that multi-packs are bar coded in a manner that customers splitting items will not be charged the price of the multi-pack.



> PROMOTIONS

PROMOTIONS • EAN007>53915092013456.ITF005.EAN007>539150920135391509



- ■ ■ > Specific attention to promotions is required both at the commencement and end of a promotion when price changes occur. Promotional material such as posters, leaflets, point of sale advertising as well as shelf-edge labels must be in line with the computer file price.

The start of the promotion should follow the procedures provided in "Price Decreases". Shelf-edge labels and promotional material must not be in place before the promotional price is activated in the computer file.

The end of the promotion should follow the procedures provided in the Price Increases section. In particular shelf-edge labels must be changed and promotional material must be removed before the computer file price is returned to the "normal" price.

Multiple Purchase Promotions which include more than one item should be checked to ensure that all relevant codes are correctly included and are in line with all promotional literature.

Money Off Vouchers or Coupons may include a bar code. Where this applies, the system should be checked to ensure that all such vouchers provide the appropriate price reduction.



> A BREACH OF THE SCANNING CODE OF PRACTICE

A BREACH OF THE SCANNING CODE OF PRACTICE • EAN007>53915092013456



III > What constitutes a breach of the Code of Practice?

There are 2 possible instances in which a store may be held to be in breach of the Scanning Code of Practice.

1. A refusal to participate in the surveys which monitor adherence to the Code is considered a breach and may result in the withdrawal of the Code Compliance Notice from that store.
2. Upon completion of a survey a store may be in breach of the Code if an error rating greater than the following is recorded:

- > more than 1 overcharge in a basket of 20 goods or
- > more than 2 overcharges in a basket of 40 goods.

A store will be surveyed on the basis of a 20-item or a 40-item basket of goods depending on store size or type. Errors are considered to be pricing overcharges, where the price charged at the point of sale is greater than that displayed on the shelf edge label.

If breaches of the Code are found to occur, EAN Ireland will write to the scanning store concerned and seek an immediate investigation and rectification of any irregularities that may have arisen.

Any store found to be in breach of the Scanning Code of Practice must return their Compliance Notice to EAN Ireland immediately.

A store in breach of the Code may apply to be resurveyed in order to have its Compliance Notice reinstated. A fee is levied for this service.

Decisions relating to breaches of the Code and re-surveys are at the sole discretion of EAN Ireland.



> CUSTOMER RELATIONS

CUSTOMER RELATIONS • EAN007>53915092013456.ITF005.EAN007>53915092013



- III > Customer information must be provided at the point of purchase in terms of register display and a printed receipt. Both should give the description and price of each item and the description should be sufficient to identify the item as specifically as possible. The customer display should be positioned in such a manner as to assist the customer in checking the accuracy of each recorded sale. The receipt should indicate quantities of multiple purchases, items sold by weight and any credits allowed such as coupons.

Customer Complaints Procedures should be defined relating to any errors identified in scanning stores. These procedures will be within the general framework of a retailer's customer service policy. However they should recognise that errors can still occur and seek to deal promptly and positively with any complaints, resolving as many as possible at the time they are raised. In addition, a formal record of errors should be kept so that:

- > Necessary corrective action is taken and monitored in the store
- > Head Office is made aware when similar corrective action is required in other stores
- > General sources of error and trends in error rates can be identified.



> CODE OF PRACTICE

FOR EXTERNAL MERCHANDISERS

CODE OF PRACTICE FOR EXTERNAL MERCHANDISERS • EAN007>53915092013456



III > This code of practice applies to all products that are merchandised by suppliers.

- > Van sales persons and / or merchandisers should introduce themselves to store management when they arrive in the Store and be informed of procedures for merchandising product. If the retailer has a visitor's book it should be signed on arrival.
- > A senior management person should be responsible for ensuring that defined procedures and operations are in place and adhered to.
- > Only listed products, relevant to the store, symbol group or supermarket should be merchandised.
- > Merchandisers should use only the space on shelves allocated to them and must not move the shelf edge labels relating to other products.
- > If a product does not have an SEL the merchandiser must inform a member of management.
- > If a product is price marked the merchandiser must check that the RSP (Recommended Sale Price) on the product is the same as the Shelf Edge Label displayed. If prices differ a member of management must be informed.
- > If a product has additional point of sale material the merchandiser should check that this concurs with the price on the SEL.
- > Merchandisers should check with Management before leaving the store.



> SCANNING STORE

SURVEY METHODOLOGY

SCANNING STORE SURVEY METHODOLOGY • EAN007>53915092013456.ITF005.EAN



III > BACKGROUND

As part of EAN Ireland's on-going monitoring of scanning practices among Irish retailers, external consultants have been commissioned to conduct price audits in retail stores around the country.

This document summarises how the interviewers have been instructed to proceed with the audit when visiting retail stores and details procedural policy in the event of any problems that might arise during the field work stage.

STAGE 1 - ON ENTERING THE STORE

On entering any store the first action of the interviewer is to introduce themselves to the store manager or supervisor and to show their letter of introduction and explain in detail how the audit works.

REFUSALS

If permission to conduct the audit in the manner outlined in the letter of introduction is refused the interviewer will record on their audit sheet:

1. The name of the person they spoke to in the store
2. The word "refusal" and a brief note detailing the circumstances of the refusal.

The interviewer then explains to the store manager or supervisor that the store has been recorded as a non-participant in the EAN audit and this result will be passed on to EAN Ireland. A refusal to participate in the survey is considered a breach of the Scanning Code of Practice and may result in the withdrawal of the Code Compliance Notice from the store.

STAGE 2 - CONDUCTING THE AUDIT

On establishing agreement to proceed with the audit, the interviewer observes the following procedure:

STEP 1: The interviewer takes a trolley through the store and gathers the twenty or forty items detailed on their audit sheet. As they take each item from the shelf, they write down on the audit sheet the price in Euro and cent, as it was displayed on the shelf edge label. If no price was displayed on the shelf edge, the interviewer records NPD, "no price displayed", on their audit sheets.



> SCANNING STORE

SURVEY METHODOLOGY

SCANNING STORE SURVEY METHODOLOGY • EAN007>53915092013456.ITF005.EAN



III > If the interviewer cannot find the specified brand or item, they must choose another similar brand (avoiding own-label) and amend their audit sheet to reflect the change. Similarly, if the interviewer cannot find a specific size, they must choose another size and amend the audit sheet to reflect the change.

If the interviewer finds that one of the items on their list is on special offer, they are instructed to pay special attention and record the correct shelf edge label price.

STEP 2: The interviewer takes the trolley to the checkout, informing the checkout operator that they are not going to pay for the items. The checkout operator scans each of the items and prints a till receipt for the interviewer. The interviewer leaves the items at the checkout.

STEP 3: The interviewer takes the till receipt and transfers the prices from the till receipt to their audit sheet, writing them in Euro and cent under the appropriate heading. The interviewer staples the till receipt to the audit sheet.

STEP 4: The interviewer must then show the manager/supervisor their audit sheet and till receipt for inspection before they leave the store. The interviewer will request the manager/supervisor to sign the declaration which accompanies the audit sheet. It is the manager/supervisor's responsibility to inspect and check the audit sheet prior to signing it. A copy of this summary declaration sheet will be left with the store manager.

If the store manager finds any errors on the interviewer's audit sheet, for example a shelf edge price that has been recorded incorrectly, the store manager must show the interviewer where the error has occurred prior to any amendment being made to the interviewer's audit sheet.

The interviewer can only amend the results on their audit sheet at this stage if the store manager has demonstrated that a genuine recording error has occurred on the part of the interviewer.

If the store manager/supervisor refuses to sign the audit sheet, the interviewer must record this in detail in the form of a brief note attached to the audit sheet.



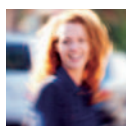
> CHECKLIST

FOR STORE MANAGERS

CHECKLIST FOR STORE MANAGERS • EAN007>53915092013456.ITF005.EAN007>53



	YES	NO
> Is the current year's Scanning Code of Practice Notice displayed?	<input type="checkbox"/>	<input type="checkbox"/>
> Is the Notice in a prominent position easily seen by customers?	<input type="checkbox"/>	<input type="checkbox"/>
> Are staff members aware that the Notice is displayed?	<input type="checkbox"/>	<input type="checkbox"/>
> Is a copy of the Scanning Code of Practice kept in an accessible place?	<input type="checkbox"/>	<input type="checkbox"/>
> Are staff members conversant with the procedures outlined in the Scanning Code of Practice?	<input type="checkbox"/>	<input type="checkbox"/>
> Are staff members aware that the Director of Consumer Affairs endorses the Code?	<input type="checkbox"/>	<input type="checkbox"/>
> Is the Scanning Code of Practice an inherent part of all in-store training?	<input type="checkbox"/>	<input type="checkbox"/>
> Are staff members aware of the importance of maintaining consumer confidence in scanning, through adherence to the Scanning Code of Practice?	<input type="checkbox"/>	<input type="checkbox"/>
> Do all bar coded products have an accurate and clearly visible shelf edge label?	<input type="checkbox"/>	<input type="checkbox"/>
> Is the correct shelf edge label placed as close as possible to the relevant product?	<input type="checkbox"/>	<input type="checkbox"/>
> Do the shelf edge label prices match the prices charged at the checkout?	<input type="checkbox"/>	<input type="checkbox"/>
> Are there procedures in place for managing shelf edge labels?	<input type="checkbox"/>	<input type="checkbox"/>
> Are there procedures for reporting scanning and shelf edge label problems to management?	<input type="checkbox"/>	<input type="checkbox"/>
> Are there clear procedures for dealing with situations where a higher price is charged at the checkout than indicated on the Shelf Edge Label?	<input type="checkbox"/>	<input type="checkbox"/>
> Are staff members aware that if a customer is charged a higher price at the checkout than that indicated on the shelf edge label that this may be in breach of the Consumer Information Act 1978?	<input type="checkbox"/>	<input type="checkbox"/>
> Are staff members aware that if a product has no price indication that this may be in breach of pricing indication legislation? (SI 422 E. C. Requirements to Indicate Product Prices Regulations 2001)	<input type="checkbox"/>	<input type="checkbox"/>



> APPLICATION

COMMITMENTS & PROCEDURES

APPLICATION COMMITMENTS & PROCEDURES • EAN007>53915092013456.ITF005.EAN



- > EAN Ireland members signing up to the Code of Practice will be requested to confirm in writing that they will adhere to the principles of the Code. The signatory of this letter should either be the Company Secretary or the Managing Director.

EAN Ireland members will be provided with a Certificate of Compliance, which should be displayed in a prominent position in their store. The certificates are public statements that the retailer undertakes to comply with the Code of Practice.

EAN Ireland members involved in the sale of scanning equipment and/or systems will be asked to make written commitments that they will bring the Code of Practice to the notice of their existing, prospective and future customers.

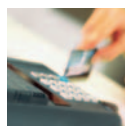
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> USEFUL NAMES

AND ADDRESSES

USEFUL NAMES AND ADDRESSES • EAN007>53915092013456.ITF005.EAN007>53915



- Office of the Director of Consumer Affairs
4 Harcourt Road
Dublin 2

or

89 – 90 South Mall
Cork

Tel: 402 5555 (within 01 area)
LoCall: 1890 220229 (outside 01 area)
Fax: 01 402 5501
Email: odca@entemp.ie
Website: www.odca.ie

- Consumer Association of Ireland
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Dublin 6

Tel: 01 497 8600
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Email: cai@consumerassociation.ie
Website: www.consumerassociation.ie

- RGDATA
(Retail Grocery Dairy & Allied Trades' Association)
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נספח מס' 4

חוק סימון מחירים של אנגליה שהיה בתוקף מ-1999 עד 2004

UK Statutory Instrument 1999 No. 3042

The Price Marking Order 1999

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STATUTORY INSTRUMENTS

1999 No. 3042

PRICES

The Price Marking Order 1999

<i>Made</i>	<i>10th November 1999</i>
<i>Laid before Parliament</i>	<i>11th November 1999</i>
<i>Coming into force</i>	
<i>Article 2(1)</i>	<i>4th December 1999</i>
<i>Remainder</i>	<i>18th March 2000</i>

The Secretary of State, after consulting in accordance with section 2(6) of the Prices Act 1974^[1], as applied by section 4(3) of that Act, in such manner as appeared to him to be appropriate having regard to the subject matter and the urgency of the Order, with such organisations representative of interests substantially affected by the Order as appeared to him having regard to those matters, to be appropriate, in exercise of his powers under section 4 and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1. - (1) This Order may be cited as the Price Marking Order 1999. Article 2(1) of this Order shall come into force on 4th December 1999 and all other articles shall come into force on 18th March 2000.

(2) In this Order -

"advertisement" means any form of advertisement which is made in order to promote the sale of a product but does not include any advertisement by means of which the trader intends to encourage a consumer to enter into a distance contract, a catalogue, a price list, a container or a label;

"consumer" means any individual who buys a product for purposes that do not fall within the sphere of his commercial or professional activity;

"distance contract" means any contract concerning products concluded between a trader and a consumer, by any means, without the simultaneous physical presence of the trader and the consumer;

"foreign currency" means any currency other than sterling;

"itinerant trader" means any trader who, as a pedestrian, or from a train, aircraft, vessel, vehicle, stall, barrow, or other mobile sales unit, offers products to consumers other than by means of pre-printed material;

"net drained weight" means the weight of a solid food product when it is presented in a "liquid medium", as that expression is defined for the purposes of paragraph 4 of Article 8 of Council Directive 79/112/EEC relating to the labelling and presentation of foodstuffs^[2];

"products sold from bulk" means products which are not pre-packaged and are weighed or measured at the request of the consumer;

"relevant floor area" in relation to a shop means the internal floor area of the shop excluding any area not used for the retail sale of products or for the display of such products for retail sale;

"selling price" means the final price for a unit of a product, or a given quantity of a product, including VAT and all other taxes;

"shop" includes a store, a kiosk and a franchise or concession within a shop;

"small shop" means any shop which has a "relevant floor area" not exceeding 280 square metres;

"trader" means any person who sells or offers or exposes for sale products which fall within his commercial or professional activity;

"unit price" means the final price, including VAT and all other taxes, for one kilogram, one litre, one metre, one square metre or one cubic metre of a product, or, in respect of the products specified in Schedule 1, the final price for the corresponding unit of quantity set out in that Schedule, or, where products are sold by number, the final price for one individual item of the product.

Revocations

2. - (1) Article 7 of the Price Marking Order 1991^[3] is hereby revoked.

(2) The following orders are hereby revoked:

(a) The Price Marking Order 1991 except article 7;

(b) The Price Marking (Pre-packed Milk in Vending Machines) Order 1976^[4].

Exclusion from application of the Order

3. This Order shall not apply:

(a) to products which are supplied in the course of the provision of a service;
or

(b) to sales by auction or sales of works of art or antiques.

Obligation to indicate selling price

4. - (1) Subject to paragraph (2) of this article, where a trader indicates that any product is or may be for sale to a consumer, he shall indicate the selling price of that product in accordance with the provisions of this Order.

(2) The requirement in paragraph (1) above shall not apply in respect of:

(a) products sold from bulk; and

(b) an advertisement for a product.

Obligation to indicate unit price

5. - (1) Subject to paragraphs (2) (3) and (4) below, where a trader indicates that any product is or may be for sale to a consumer he shall indicate the unit price of that product in accordance with the provisions of this Order.

(2) The requirement in paragraph (1) shall apply only in respect of any product sold from bulk or required by or under Parts IV or V of the Weights and Measures Act 1985[5] to be:

(a) marked with an indication of quantity; or

(b) made up in a quantity prescribed by or under that Act.

(3) The requirement in paragraph (1) of this article shall not apply in relation to any product:

(a) which is listed in Schedule 2;

(b) the unit price of which is identical to its selling price; or

(c) which is pre-packaged in a constant quantity and sold:

(i) in a small shop;

(ii) by an itinerant trader; or

(iii) from a vending machine.

(4) The requirement in paragraph (1) shall apply in relation to an advertisement for a product only where the selling price of a product is indicated in the advertisement.

Manner of indication of selling price and unit price

6. - (1) The indication of selling price and unit price required by this Order shall be in sterling.

(2) If a trader indicates his willingness to accept foreign currency for the purchase of a product, he shall, in addition to the price indications in sterling, either:

(a) identify the selling price and the unit price of the product in the foreign currency in question together with any commission to be charged; or

(b) shall clearly identify the conversion rate on the basis of which the foreign currency prices will be calculated together with any commission to be charged.

(3) Where a trader identifies the selling price and the unit price of the product in a foreign currency or identifies the conversion rate on the basis of which the foreign currency prices will be calculated, he shall also indicate that such selling price, unit price or conversion rate does not apply to transactions (via payment card or Uniform Eurocheque) to be applied to accounts denominated in currencies other than sterling, the exchange rate for which will be that applied by the relevant payment scheme which processes the transaction.

7. - (1) The indication of selling price, unit price, commission, conversion rate or change in the rate of Value Added Tax shall be -

(a) unambiguous, easily identifiable and clearly legible;

(b) placed in proximity to the products to which it relates; and

(c) so placed as to be available to consumers without the need for them to seek assistance from the trader or someone else on his behalf in order to ascertain it.

(2) The indication of any charges for postage, package or delivery of a product shall be unambiguous, easily identifiable and clearly legible.

(3) Where, in addition to a unit price, a price per quantity is indicated in relation to a supplementary indication of quantity expressed in imperial units of measurement, the unit price shall predominate and the price per imperial quantity shall be expressed in characters no larger than the unit price.

8. In the case of a pre-packaged solid food product presented in a liquid medium, the unit price shall refer to the net drained weight of the product. Where a unit price is also given with reference to the net weight of the product, it shall be clearly indicated which unit price relates to net drained weight and which to net weight.

Change in Value Added Tax

9. The provisions of this Order shall be complied with notwithstanding any change in the rate or coverage of VAT or any other tax, provided that where there is any such change a retailer who adjusts his prices in consequence thereof may -

(a) by means of a general notice or notices for a period of 14 days from the date any such change takes effect, indicate that any products subject to that change are not for sale at the price indicated and that such price will be adjusted to take account of the change;

(b) continue to distribute any catalogue or sales literature printed or ordered to be printed before a change is announced if, but only if -

- (i) there is firmly attached thereto a label which prominently states that some or all of the prices printed therein are to be adjusted to reflect the change, and
- (ii) it includes sufficient information to enable prospective purchasers to establish the adjusted prices of any products listed, or
- (iii) it refers to and is accompanied by a supplement which enables them to do so.

Decimal places and roundings of unit prices

10. Where the unit price of a product falls below £1 it shall be expressed to the nearest 0.1p. Where the figure denoting one hundredths of one penny in the unit price is 5 or higher, it shall be rounded up. Where it is 4 or lower it shall be rounded down.

11. Where the unit price of a product falls above £1 it shall be expressed to the nearest 1p. In these cases where the figure denoting tenths of one penny in the unit price is 5 or higher, it shall be rounded up. Where it is 4 or lower it shall be rounded down.

Enforcement

12. - (1) This Order shall be enforced under the Prices Act 1974^[6].

(2) For the purpose of ascertaining whether any trader is exempt, under article 5(3)(c)(i), from the requirement to unit price products which are pre-packaged in a constant quantity, a trading standards authority may require that trader to produce such documentary evidence relating to the shop in question as it considers necessary.

Kim Howells,

Parliamentary Under-Secretary of State for Consumers and Corporate Affairs,
Department of Trade and Industry

10th November 1999

SCHEDULE 1

Relevant unit of quantity for specific products for the purpose of the definition of "unit price"

<i>PRODUCT</i>	<i>UNITS</i>
Herbs	10 g
Spices	10 g
Flavouring essences	10 ml
Food colourings	10 ml
Seeds other than pea and bean seeds	10 g
Cosmetic make-up products	10 g/ml
Rice	100 g
Pickles	100 g
Sauces, edible oils	100 ml
Fresh processed salad	100 g
Chilled desserts	100 ml
Cream	100 ml
Bread	100 g
Biscuits	100 g
Pies and flans indicating net quantity	100 g
Ice cream and frozen desserts	100 g/ml
Preserves	100 g
Soups	100 g
Fruit juices, soft drinks	100 ml
Coffee	100 g/ml
Tea and other beverages prepared with liquid	100 g
Confectionery	100 g
Potato crisps and similar products commonly known as snack foods	100 g
Breakfast cereal products	100 g

Dry sauce mixes	100 g
Lubricating oils other than oils for internal combustion engines	100 ml
Shaving creams	100 g/ml
Hand creams	100 ml
All purpose lotions and creams	100 ml
Sun products	100 ml
Oral products, including toothpaste	100 g/ml
Hair lacquer	100 ml
Hair shampoos and conditioners	100 g/ml
Hair strengtheners, creams and brilliantines	100 ml
Bubble baths and foaming products for bath and shower	100 ml
Deodorants	100 g/ml
Talcum powders	100 g
Toilet soaps	100 g
Alcohol based beauty and toilet products containing less than 3% by volume of natural or synthetic perfume oil and less than 70% by volume of pure ethyl alcohol; aromatic waters, hair lotions, pre-shower and after-shave lotions	100 ml
Handrolling and pipe tobacco	100 g
Wines, sparkling wine, liqueur wine, fortified wine	750 ml
Coal, where sold by the kilogram	50 kg
Ballast, where sold by the kilogram	1,000 kg

SCHEDULE 2

Products in respect of which a trader is exempt from the requirement to unit price

Any product which is offered by traders to consumers by means of an advertisement which is:

- (a) purely aural;
- (b) broadcast on television; or
- (c) shown at a cinema.

Any product the price of which has been reduced from the usual price at which it is sold, on account of:

- (a) its damaged condition; or
- (b) the danger of its deterioration.

Any product which comprises an assortment of different items sold in a single package.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 4 of the Prices Act 1974 and implements Directive 98/6/EC of the European Parliament and of the Council (OJ No. L180, 18.3.98 p. 27) on consumer protection in the indication of the prices of products offered to consumers.

The Order revokes article 7 of the Price Marking Order 1991 as from 4th December 1999 and revokes the remainder of the Price Marking Order 1991 as from 18th March 2000.

The Order applies to all products offered by traders to consumers other than those supplied in the course of the provision of a service, those sold by auction or works of art or antiques. (article 3). With specified exceptions, the Order requires that the selling price is given where a product is offered by a trader to a consumer. (article 4).

The Order also requires, subject to specified exceptions, that the unit price must be indicated for all products sold from bulk or for pre-packaged products which are required by or under Parts IV or V of the Weights and Measures Act 1985 to be marked with quantity or to be made up in a prescribed quantity. (article 5).

The Order requires the display of prices in sterling but permits additional indications of price in a foreign currency subject to specified conditions. (article 6). All price and other indications required under the Order are subject to requirements on visibility. (article 7). Prices are required to be inclusive of VAT and all other taxes and provision is made in respect of price indications following a change in the rate of VAT. (articles 1(2) and 9). Provision is also made in respect of the manner in which the unit price shall be expressed with regard to decimal places and roundings of figures. (articles 10 and 11).

The Order is to be enforced under the Prices Act 1974. (article 12(1)).

The Order (except article 2(1)) is brought into force on 18th March 2000. Article 2(1) is brought into force on 4th December 1999.

A Regulatory Impact Assessment of the costs and benefits which will result from this Order has been prepared. Copies have been placed in the libraries of both Houses of Parliament and can also be obtained from the Consumer Affairs Directorate of the Department of Trade and Industry, Room 458, 1 Victoria Street, London SW1H 0ET.

Notes:

[1] 1974 c. 24; section 4 was amended by the Price Commission Act 1977 (c. 33), section 16(1).

[2] OJ No. L33, 8.2.79, p. 1; as amended by Council Directive 89/395/EEC, OJ No. L186, 30.6.89, p. 17.

[3] S.I. 1991/1382, amended by S.I. 1991/1690, S.I. 1994/1853 and S.I. 1995/1441.

[4] S.I. 1976/796.

[5] 1985 c. 72.

[6] 1974 c. 24; section 4 was amended by the Price Commission Act 1977 (c. 33), section 16(1).

United Kingdom Statutory Instrument No. 102, 2004

The Price Marking Order 2004

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STATUTORY INSTRUMENTS

2004 No. 102

PRICES

The Price Marking Order 2004

<i>Made</i>	<i>19th January 2004</i>
<i>Laid before Parliament</i>	<i>21st January 2004</i>
<i>Coming into force</i>	<i>22nd July 2004</i>

Whereas the Secretary of State, in accordance with section 2(6) of the Prices Act 1974[1] as applied by section 4(3) of that Act has consulted in such a manner as appeared to her to be appropriate having regard to the subject-matter and urgency of this Order, with such organisations representative of interests substantially affected by this Order as appeared to her, having regard to those matters, to be appropriate;

Now, therefore, the Secretary of State, in exercise of the powers under section 4 of the said Act, hereby makes the following Order -

Citation, commencement and interpretation

1. - (1) This Order may be cited as the Price Marking Order 2004 and shall come into force on 22nd July 2004.

(2) In this Order -

"advertisement" means any form of advertisement which is made in order to promote the sale of a product but does not include any advertisement by means of which the trader intends to encourage a consumer to enter into a distance contract, a catalogue, a price list, a container or a label;

"consumer" means any individual who buys a product for purposes that do not fall within the sphere of his commercial or professional activity;

"cosmetic products" means any substance or preparation intended to be placed in contact with an external part of the human body, or with the teeth, inside of the mouth or throat with a view exclusively or mainly to one or more of the following purposes: cleaning, perfuming, changing the appearance of, protecting, and keeping in good condition it or them or correcting body odour;

"distance contract" means any contract concerning products concluded between a trader and a consumer, by any means, without the simultaneous physical presence of the trader and the consumer;

"itinerant trader" means any trader who, as a pedestrian, or from a train, aircraft, vessel, vehicle, stall, barrow, or other mobile sales unit, offers products to consumers other than by means of pre-printed material;

"liquid medium" has the meaning given for the purposes of paragraph 4 of Article 8 of Directive 2000/13/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs[2];

"make-up products" means cosmetic products solely intended temporarily to change the appearance of the face or nails, including (but not limited to) lipsticks, mascaras, eye shadows, blushers and concealers;

"net drained weight" means the weight of a solid food product when it is presented in a liquid medium;

"precious metal" means gold, silver or platinum, or any other metal to which by an order under section 17 of the Hallmarking Act 1973[3] the provisions of that Act are applied;

"products sold from bulk" means products which are not pre-packaged and are weighed or measured at the request of the consumer;

"relevant floor area" in relation to a shop means the internal floor area of the shop excluding any area not used for the retail sale of products or for the display of such products for retail sale;

"selling price" means the final price for a unit of a product, or a given quantity of a product, including VAT and all other taxes;

"shop" includes a store, kiosk and a franchise or concession within a shop;

"small shop" means any shop which has a "relevant floor area" not exceeding 280 square metres;

"standard of fineness" means any one of the standards of fineness specified in column (2) of paragraph 2 of Schedule 2 to the Hallmarking Act 1973;

"trader" means any person who sells or offers or exposes for sale products which fall within his commercial or professional activity;

"unit price" means the final price, including VAT and all other taxes, for one kilogram, one litre, one metre, one square metre or one cubic metre of a product, except (i) in respect of the products specified in Schedule 1, where unit price means the final price including VAT and all other taxes for the corresponding units of quantity set out in that Schedule; and (ii) in respect of products sold by number, where unit price means the final price including VAT and all other taxes for an individual item of the product.

Revocation

2. The Price Marking Order 1999^[4] is hereby revoked.

Scope of application of the Order

3. - (1) This Order shall not apply:

- (a) to products which are supplied in the course of the provision of a service; or
- (b) to sales by auction or sales of works of art or antiques.

(2) The Electronic Commerce (EC Directive) Regulations 2002^[5] shall apply to this Order notwithstanding Regulation 3(2) of those Regulations.

Obligation to indicate selling price

4. - (1) Subject to paragraph (2) and articles 9 and 10, where a trader indicates that any product is or may be for sale to a consumer, he shall indicate the selling price of that product in accordance with the provisions of this Order.

(2) The requirement in paragraph (1) above shall not apply in respect of:

- (a) products sold from bulk; or
- (b) an advertisement for a product.

Obligation to indicate unit price

5. - (1) Subject to paragraph (2), (3) and (4) and article 9, where a trader indicates that any product is or may be for sale to a consumer, he shall indicate the unit price of that product in accordance with the provisions of this Order.

(2) The requirement in paragraph (1) only applies in respect of products sold from bulk or required by or under Parts IV or V of the Weights and Measures Act 1985^[6] to be:

- (a) marked with an indication of quantity; or
- (b) made up in a quantity prescribed by or under that Act.

(3) The requirement in paragraph (1) shall not apply in relation to:

- (a) any product which falls within Schedule 2;
- (b) any product the unit price of which is identical to its selling price;
- (c) bread made up in a prescribed quantity which is or may be for sale in a small shop, by an itinerant trader or from a vending machine; or
- (d) any product which is pre-packaged in a constant quantity which is or may be for sale in a small shop, by an itinerant trader or from a vending machine.

(4) The requirement in paragraph (1) applies in relation to an advertisement for a product only where the selling price of the product is indicated in the advertisement.

Manner of indication of selling price and unit price

6. - (1) The indication of selling price and unit price shall be in sterling.

(2) If a trader indicates his willingness to accept foreign currency in payment for a product, he shall, in addition to the required price indications in sterling:

(a) give an indication of the selling price and any unit price required for the product in the foreign currency in question together with any commission to be charged; or

(b) clearly identify the conversion rate on the basis of which the foreign currency price will be calculated together with any commission to be charged; and indicate that such selling price, unit price or conversion rate as the case may be does not apply to transactions via a payment card to be applied to accounts denominated in currencies other than sterling, the conversion rate for which will be that applied by the relevant payment scheme which processes the transaction.

7. - (1) An indication of selling price, unit price, commission, conversion rate or a change in the rate or coverage of value added tax given in accordance with article 11 shall be -

(a) unambiguous, easily identifiable and clearly legible;

(b) subject to paragraph 2, given in proximity to:

(i) the product; or

(ii) in the case of distance contracts and advertisements, a visual or written description of the product; and

(c) so placed as to be available to consumers without the need for them to seek assistance from the trader or someone on his behalf in order to ascertain it.

(2) Paragraph (1)(b)(i) does not apply to an indication given in relation to any item of jewellery, item of precious metal, or watch displayed in a window of the premises where it is or may be for sale and the selling price of which is in excess of £3,000.

(3) The indication of any charges for postage, package or delivery of a product shall be unambiguous, easily identifiable and clearly legible.

(4) Where, in addition to a unit price, a price per quantity is indicated in relation to a supplementary indication of quantity the unit price shall predominate and the price per supplementary indication of quantity shall be expressed in characters no larger than the unit price.

(5) In paragraph (4) "supplementary indication of quantity" refers to an indication of quantity expressed in a unit of measurement other than a metric unit as authorised by section 8(5A) of the Weights and Measures Act 1985^[7].

8. In the case of a pre-packaged solid food product presented in a liquid medium,

the unit price shall refer to the net drained weight of the product. Where a unit price is also given with reference to the net weight of the product, it shall be clearly indicated which unit price relates to net drained weight and which to net weight.

Special provisions relating to general reductions

9. Where a trader proposes to sell products to which this Order applies at less than the selling price or the unit price previously applicable and indicated in accordance with article 7(1), he may comply with the obligations specified in articles 4(1) (to indicate the selling price) and 5(1) (to indicate the unit price) by indicating by a general notice or any other visible means that the products are or may be for sale at a reduction, provided that the details of the reduction are prominently displayed, unambiguous, easily identifiable and clearly legible.

Special provisions relating to precious metals

10. In the case of products the selling price of which varies from day to day according to the price of the precious metals contained in them the obligation to indicate the selling price referred to in article 4(1) may be complied with by indicating in a manner which is unambiguous, easily identifiable and clearly legible:

(a) the weight, type and standard of fineness of each precious metal contained in the product; and

(b) any element of the selling price which is not referable to weight, accompanied by a clearly legible and prominent notice stating the price per unit of weight for the type and standard of fineness of each precious metal contained in the product.

Change in Value Added Tax etc.

11. Where there is a change in the rate or coverage of VAT or any other tax, a trader who adjusts his prices in consequence may comply with the provisions of this Order -

(a) by means of a general notice or notices for a period of 14 days from the date any such change takes effect, indicating that any products subject to that change are not for sale at the price indicated and that such price will be adjusted to take account of the change; and

(b) if he continues to distribute any catalogue or sales literature printed or ordered to be printed before a change is announced and there is firmly attached to it a label which prominently states that some or all of the prices printed in it are to be adjusted to reflect the change, and:

(i) the label includes sufficient information to enable consumers to establish the adjusted price of any product listed, or

(ii) the label refers to and is accompanied by a supplement which enables them to do so.

Decimal places and rounding of unit prices

12. Where the unit price of a product falls below £1 it shall be expressed to the nearest 0.1p. Where the figure denoting one hundredths of one penny in the unit price

is 5 or higher, it shall be rounded up and where it is 4 or lower it shall be rounded down.

13. Where the unit price of a product falls above £1 it may be expressed to the nearest:

(a) 1p, in which case where the figure denoting tenths of one penny in the unit price is 5 or higher, it shall be rounded up and where it is 4 or lower it shall be rounded down; or

(b) 0.1p, in which case where the figure denoting one hundredths of one penny in the unit price is 5 or higher it shall be rounded up and where it is 4 or lower it shall be rounded down.

Units of Quantity

14. For the purposes of Schedule 1, the figure denoting the relevant units of quantity in the second column of the table for the corresponding product in the first column of the table refers, as indicated by or under the Weights and Measures Act 1985^[8], and unless specified otherwise to:

(a) grams where the product is sold by weight;

(b) millilitres where the product is sold by volume; and

(c) either grams or millilitres, as indicated by the manufacturer of the product, where the product is permitted to be sold by either weight or volume.

Enforcement

15. For the purpose of ascertaining whether any trader enjoys exemption from unit pricing under article 5(3)(c) or (d) in respect of a small shop, a local weights and measures authority may require that trader to produce such documentary evidence relating to the shop in question as it considers necessary.

Gerry Sutcliffe,

Parliamentary under Secretary of State for Employment Relations, Competition and Consumers, Department of Trade and Industry

19th January 2004

SCHEDULE 1

Articles 1(2) and 14

RELEVANT UNITS OF QUANTITY FOR SPECIFIED PRODUCTS FOR THE PURPOSE OF THE DEFINITION OF "UNIT PRICE"

<i>Product</i>	<i>Units of Quantity</i>
Flavouring essences	10
Food colourings	10
Herbs	10
Make-up Products	10 (except where sold by number)
Seeds other than pea, bean, grass and wild bird seeds	10
Spices	10
Biscuits and shortbread	100 (except where sold by number)
Bread	100 (except where sold by number)
Breakfast cereal products	100 (except where required to be quantity marked by number)
Chocolate confectionery and sugar confectionery	100
Coffee	100
Cooked or ready-to-eat fish, seafoods and crustacea	100
Cooked or ready-to-eat meat including game and poultry	100
Cosmetic products other than make-up products	100
Cream and non-dairy alternatives to cream	100
Dips and spreads excluding edible fats	100
Dry sauce mixes	100
Fresh processed salad	100
Fruit juices, soft drinks	100
Handrolling and pipe tobacco	100
Ice cream and frozen desserts	100

Lubricating oils other than oils for internal combustion engines	100
Pickles	100
Pies, pasties, sausage rolls, puddings and flans indicating net quantity	100 (except where sold by number)
Potato crisps and similar products commonly known as snack foods	100
Preserves including honey	100
Ready to eat desserts	100
Sauces, edible oils	100
Soups	100
Tea and other beverages prepared with liquid	100
Waters, including spa waters and aerated waters	100
Wines, sparkling wine, liqueur wine, fortified wine	75 cl
Coal, where sold by the kilogram	50 kg
Ballast, where sold by the kilogram	1,000 kg

SCHEDULE 2

Article 5(3)

PRODUCTS IN RESPECT OF WHICH A TRADER IS EXEMPT FROM THE REQUIREMENT TO UNIT PRICE

1. Any product which is offered by traders to consumers by means of an advertisement which is:

- (a) purely aural;
- (b) broadcast on television;
- (c) shown at a cinema; or
- (d) inside a small shop.

2. Any product the price of which has been reduced from the usual price at which it is sold, on account of:

- (a) its damaged condition; or
- (b) the danger of its deterioration.

3. Any product which comprises an assortment of different items sold in a single package.

4. Any product the unit price of which is 0.0p as a result of article 12 (Decimal places and rounding of unit prices) of this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order implements Directive 98/6/EC of the European Parliament and of the Council (OJ No. L180, 18.3.98 p. 27) on consumer protection in the indication of prices of products offered to consumers. It revokes the Price Marking Order 1999 (S.I. 1999 No. 3042) which previously implemented the Directive.

Article 4 requires traders to indicate the selling prices of all products offered for sale to consumers except those offered in the course of the provision of a service, those sold by auction, works of art or antiques (article 3(1)) and products sold from bulk. Article 1 defines the selling price as the final price including VAT and other taxes.

Article 3(2) applies to this Order the requirements of the Electronic Commerce (EC Directive) Regulations 2002 (S.I. 2002 No. 2013).

Article 5 requires, with exceptions, that the unit price must be indicated for all products sold from bulk and pre-packaged products that are required by or under Parts IV or V of the Weights and Measures Act 1985 to be marked with quantity or to be made up in a prescribed quantity. Article 14 specifies the units of quantity to be used for unit prices of the items listed in Schedule 1 to the Order.

Article 6 requires selling and unit prices to be indicated in sterling but provides for additional indications to be given where a trader indicates that he is willing to accept payment in a foreign currency.

Article 7 requires prices and other indications required under the Order to be given in a clear and unambiguous manner.

The Order includes specific provisions relating to general price reductions (article 9), precious metals the selling price of which varies from day to day (article 10), and changes in VAT or other taxes which cause adjustments in prices (article 11).

A regulatory impact assessment and a Transposition Note in relation to these Regulations have been prepared and are available from the Consumer and Competition Policy Directorate, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET or at www.dti.gov.uk/ccp/. Copies of both these documents have also been placed in the libraries of both Houses of Parliament.

Notes:

[1] 1974 c. 24. Section 4 was amended by section 16 of the Price Commission Act 1977 (c. 33).

[2] OJ No. L109, 6.5.2000, p. 29.

[3] 1973 c. 43.

[4] S.I. 1999/3042.

[5] S.I. 2002/2013.

[6] 1985 c. 72.

[7] 1985 c. 72. Section 8(5A) was inserted by article 5(2) of S.I. 1994/2867 and amended by article 3(2) of S.I. 2001/55.

[8] 1985 c. 72.

נספח מס' 5

חוק סימון מחירים של פינלנד

**DECREE
ON THE INDICATION OF THE PRICES IN
MARKETING CONSUMER PRODUCTS
(1359/1999)**

**FINLAND
Unofficial translation
18 February 2000**

General provisions

Section 1

This Decree shall apply to the indication of the selling prices and the unit prices of consumer products governed by the Consumer Protection Act (38/1978), except for dwellings.

The information to be supplied in marketing dwellings is governed by separate legislation.

Section 2

For the purposes of this Decree:

(a) *selling price* shall mean the final price for a unit of the product, or a given quantity of the product, or a service, including VAT and all other taxes, as well as deposits charged,

(b) *unit price* shall mean the final price, including VAT and all other taxes but excluding deposits, for one kilogram, one litre, one metre, one square metre or one cubic metre of the product,

(c) *products sold in bulk* shall mean products, which are not pre-packaged and are measured in the presence of the consumer.

Price indications for products

Section 3

In marketing consumer products, both the selling price and the unit price shall be indicated for all products, save as otherwise provided in this Decree as to the unit price. The unit price need not be indicated if it is identical to the selling price.

For products sold in bulk, the unit price must be indicated before measuring. The selling price shall be indicated after measuring.

Ways of indicating the price

Section 4

In marketing a consumer product, the selling price and the unit price shall be indicated in a simple and an unambiguous manner and they shall be readily comprehensible and noticeable by the consumer.

Special charges related to the acquisition of the product to be collected from some consumers in connection with the sale of a consumer product shall be clearly indicated.

Section 5

In marketing by advertising or by other similar means a specified consumer product to the consumer, the retailer or any other entrepreneur operating like a retailer or engaged in a service business shall indicate the selling price of the product and, save as otherwise provided in this Decree, the unit price of the consumer product shall simultaneously be indicated.

Section 6

Consumer products, whether available for sale at the place of retail sale or shown in the display window, shall be provided with an indication of selling prices and unit prices.

Section 7

For foodstuffs, the obligation to indicate the unit price does not apply to

- (1) pre-packed products with a content of less than 50 grams, or 50 millilitres;
- (2) pre-packed complete meals and other packages containing different foodstuffs;
- (3) pastry, confectionery, chocolate eggs and other sugar confectionery used for garnishing,
- (4) vegetables for early season sold in bunches and vegetables in pots.

For non-food products, the obligation to indicate the unit price does not apply to

- (1) consumer products, sold one by one, which cannot be divided into parts without changing their quality or characteristics and to which the obligation to indicate their weight, length or volume does not apply,
- (2) pre-packed products with a content of less than 50 grams or 50 millilitres.

Section 8

Notwithstanding what has been provided above, for the following products the unit price to be indicated is the price per piece:

- 1) paper serviettes
- 2) nappies, sanitary towels and tampons.

For cleaning detergents sold in concentrate form, the unit price to be indicated is the price for dilute quantity.

Section 9

The unit price shall be calculated on the basis of the net contents of the package. If solid food is marketed in pickle, marinade, syrup or other liquid, the unit price shall be calculated on the basis of the weight of the solid food indicated on the package.

The price per kilogram of unpacked bread shall be calculated on the basis of the average weight given by the bakery.

Section 10

The selling price and the unit price shall be indicated

- (1) on the product itself or on its wrapping, or
- (2) separately on the product stand, or,
- (3) where the type of the product or the way in which it is preserved at the place of retail sale prevents from indicating the price in accordance with subparagraphs 1 and 2 above, in a price list placed in the immediate vicinity of the product.

In cases covered by subparagraphs 2 and 3 of the first paragraph of this Section, special attention shall be paid to the simplicity of the indication of selling prices and unit prices and their identifiability beyond any risk of doubt concerning the product or its package size. The unit price must be clearly distinguishable from the selling price. The price indication must be located and dimensioned in a way that makes it readily noticeable by the consumer.

Price indications for services

Section 11

An entrepreneur providing consumer services to the consumer shall have a price list or some other account of the criteria used in calculating the prices. This shall be placed at some suitable place on the business premises so as to be readily noticeable by the consumer, even from outside.

If, on account of the large number of the services provided or some similar circumstance, it is impracticable to set out all the prices or their calculation criteria in a list, it will suffice to show in the list the most common prices or the criteria for their

calculation. In such a case, a complete list of the prices or the calculation criteria of the prices shall be available to the consumer and a statement to that effect shall be included in the copy of the list displayed.

If services are provided or performed at a place not constituting business premises, the price list or other account of the criteria used in price calculation shall be produced on request.

Section 12

The National Consumer Agency may, on special grounds, grant derogations from the provisions of this Decree in so far as indication of the prices of services is concerned.

Entry into force

Section 13

This Decree enters into force on 1 April 2000.

This Decree repeals the Decree on the indication of the prices in marketing consumer products issued on 13 January 1989 (9/1989).

Source:

http://www.kuluttajavirasto.fi/user_nf/default.asp?id=8517&site=36&tmf=7442&root_id=7442&mode=readdoc

נספח מס' 6

חוק סימון מחירים של מדינת מישניגן, ארה"ב

PRICING AND ADVERTISING OF CONSUMER ITEMS
Act 449 of 1976

AN ACT to regulate the pricing of consumer items and the advertising of consumer items, services, goods, merchandise, commodities, and real property; to prescribe the powers and duties of certain state and local officials in relation thereto; to provide remedies and penalties; and to repeal certain acts and parts of acts.

History: 1976, Act 449, Eff. Jan. 1, 1978.

Popular name: Scanner Law

Popular name: Item Pricing Act

The People of the State of Michigan enact:

445.351 Definitions.

Sec. 1. As used in this act:

(a) "Advertising" means all representations disseminated in any manner by any means for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of a consumer item, service, good, merchandise, commodity, or real property.

(b) "Automatic checkout system" means an electronic device, computer, or machine which determines the price of a consumer item by using a product identity code, and may but is not required to include an optical scanner.

(c) "Class of item" means a group of consumer items which may vary by brand, style, pattern, color, or size other than weight or volume. Items within a class must otherwise be identical and offered at the same total price.

(d) "Consumer item" means an article of tangible personal property used or consumed, or bought for use or consumption, primarily for personal, family, or household purposes.

(e) "Director" means the director of the department of agriculture or his authorized representative.

(f) "Person" means an individual, firm, partnership, corporation, association, or other legal entity.

(g) "Sale at retail" means the transfer of an interest in a consumer item by a person regularly and principally engaged in the business of selling consumer items to a buyer for use or consumption and not for resale.

(h) "Total price" means the full purchase price of a consumer item, excluding sales tax and container deposit.

History: 1976, Act 449, Eff. Jan. 1, 1978.

Popular name: Scanner Law

Popular name: Item Pricing Act

445.352 Implementation and administration of §§ 445.353 and 445.354; investigations; rules.

Sec. 2. The director shall be responsible for the implementation and administration of sections 3 and 4 and:

(a) Shall investigate complaints concerning violations of sections 3 and 4, and shall conduct such other investigations as he deems advisable.

(b) Shall, as the state director of weights and measures, promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, for the implementation and administration of sections 3 and 4.

History: 1976, Act 449, Eff. Jan. 1, 1978.

Popular name: Scanner Law

Popular name: Item Pricing Act

Administrative rules: R 285.555.1 et seq. of the Michigan Administrative Code.

445.353 Stamping or affixing total price of consumer item; exemptions; lists and signs for classes of items or individual items, "item" defined.

Sec. 3. (1) The total price of a consumer item displayed or offered for sale at retail shall be clearly and conspicuously indicated in arabic numerals, so as to be readable and understandable by visual inspection, and shall be stamped upon or affixed to the consumer item. If the consumer item is in a package or container, the total price shall be stamped upon or affixed to the outside surface of the package or container and need not be placed directly upon the consumer item.

(2) The requirements of subsection (1) shall not apply to:

- (a) A consumer item sold by weight or volume which is not in a package or container.
 - (b) A consumer item sold in a coin operated vending machine.
 - (c) Prepared food intended for immediate consumption, as defined in section 4g of Act No. 167 of the Public Acts of 1933, being section 205.54g of the Michigan Compiled Laws.
 - (d) A consumer item purchased by mail or through catalog order, or which is not otherwise visible for inspection by the consumer at the time of the sale, and which is ordered or requested by the consumer, if the price of the item is on the consumer's written order or request or on a bill, invoice, or other notice which describes or names the item and which is enclosed with the item.
 - (e) An unpackaged food item.
 - (f) A consumer item which has a total weight of not more than 3 ounces, a total volume of not more than 3 cubic inches, and a total price of not more than 30 cents.
 - (g) Live plants.
 - (h) Live animals.
 - (i) Motor vehicles.
 - (j) Motor vehicle parts.
 - (k) Packages of 20 or fewer cigarettes.
 - (l) Greeting cards sold individually which have a readable coded price on the back of the card.
 - (m) Merchandise ordered as a gift by a consumer which is sent by mail or other delivery service to a person other than the consumer by the retailer at the request of the consumer.
- (3) In addition to the exemptions allowed in subsection (2), a retailer may choose to not individually price mark not more than 25 classes of items or individual items which classes or items shall be listed and posted in a conspicuous place in the retail store, and may choose to not individually price mark not more than 25 additional classes of items or individual items which are advertised or featured at a reduced price.
- (4) The price and the name or description of a class of items or individual items not marked pursuant to subsection (3) shall be indicated by a clear, readable, and conspicuous sign in immediate conjunction with the area in which the unmarked item or class of items is displayed.
- (5) As used in subsections (3) and (4), "item", except as otherwise provided in this subsection, means 1 or more identical articles, sold in identical quantities or measures. An item may include more than 1 product, brand, kind, size, or type of packaging, if they are packaged together and sold as a set and the sets are identical in all respects, including quantity or measure.

History: 1976, Act 449, Eff. Jan. 1, 1978;—Am. 1979, Act 193, Imd. Eff. Dec. 21, 1979.

Popular name: Scanner Law

Popular name: Item Pricing Act

445.354 Charging more or less than price indicated; evidence of violation.

Sec. 4. (1) A person shall not knowingly charge or attempt to charge for a consumer item a retail sale price exceeding the price required to be indicated pursuant to section 3. It shall not be construed to be a violation of this act to charge for a consumer item a total price less than the price required to be indicated pursuant to section 3.

(2) It shall be prima facie evidence of a violation of this section if a price charged or attempted to be charged as a result of electronic identification or calculation by an automatic checkout system exceeds the price required to be indicated pursuant to section 3.

History: 1976, Act 449, Eff. Jan. 1, 1978;—Am. 1979, Act 193, Imd. Eff. Dec. 21, 1979.

Popular name: Scanner Law

Popular name: Item Pricing Act

445.355 Advertising availability of consumer item at sale price, special price, or reduced price; dates and quantity available; requirements for advertising at specific price through media; written guarantee to deliver; providing similar item; holding item for delivery; exceptions.

Sec. 5. (1) A person shall not knowingly advertise the availability of a consumer item for sale at retail at a sale or special price or as being reduced in price by an amount or proportion unless the advertisement includes the dates that item is available, or the quantity available at the advertised price together with information that the item is available at that price only as long as the advertised quantity lasts. A limitation on the quantity available of a consumer item per customer shall be clearly disclosed in an advertisement of the consumer item.

(2) If a consumer item is advertised at a specific price through the media which is not indicated to be a special, sale, or reduced price the advertiser shall do one of the following:

(a) Make the consumer item available at the advertised price for not less than 5 days after the date the consumer item was last advertised. If the item is not available for this period of time the requirements of subsection (3) shall apply. The advertiser shall not be required to make the consumer item available nor fulfill the requirements of subsection (3) if the unavailability of the consumer item is due to a governmental action, a plant closing, or an act of God and if the specific cause of the unavailability of the consumer item is posted conspicuously for the review of the consumer.

(b) Indicate in the advertisement the dates the consumer item is available at the advertised price. If the item is not available for the period of time indicated, the requirements of subsection (3) shall apply.

(c) Indicate in the advertisement the quantity available at the advertised price together with the information that the consumer item is available at the advertised price only as long as the stated quantity lasts.

(3) If an advertisement under this section does not state the quantity of the consumer item available, and if an item of merchandise cannot be sold at the advertised price throughout the advertised period of sale, the advertiser shall make available to the customer a written guarantee to deliver under the advertised conditions the consumer item at a future date stated in the guarantee, or upon notification of the customer by the merchant. If the advertised consumer item cannot be obtained to satisfy the condition of the guarantee, the advertiser may provide a similar consumer item of equal or greater monetary value. The notification of availability shall take place not more than 90 days after the guarantee is given. After the notice of availability is given, the merchant shall hold the consumer item for delivery to the customer for not less than 7 days, except the merchant need hold the consumer item for only 2 days if it is a perishable item.

(4) This section shall not apply to baked goods, fresh fruit, and fresh vegetables.

History: 1976, Act 449, Eff. Jan. 1, 1978;—Am. 1979, Act 193, Imd. Eff. Dec. 21, 1979.

Popular name: Scanner Law

Popular name: Item Pricing Act

445.356 Advertisement; untrue, deceptive, or misleading statement or representation; failure or refusal to sell in manner or at price advertised; determination of deceptive or misleading advertising; intent not to sell; defective, blemished, or rejected goods, merchandise, or commodities; seconds; identification.

Sec. 6. (1) A person shall not knowingly make, publish, disseminate, circulate, or place before the public an advertisement which contains a statement or representation which is untrue, deceptive, or misleading.

(2) The failure to sell goods, merchandise, commodities, or services in the manner advertised, or the refusal to sell at the price at which it was advertised, or in accordance with other terms and conditions of the advertisement creates a rebuttable presumption of an intent to violate this act.

(3) In determining whether advertising is deceptive or misleading, the extent to which the advertising fails to reveal facts which are material in light of the representations made or suggested in a positive manner shall be taken into account.

(4) A person shall not make, publish, disseminate, circulate, or place before the public an advertisement with the intent, design, or purpose not to sell at the price stated in the advertisement, or otherwise communicated, or with intent not to sell the goods, merchandise, commodities, or service so advertised.

(5) A person shall not advertise, call attention to, or give publicity to the sale of goods, merchandise, or commodities which are known to be substantially defective and therefore not first class, or which consist of articles or units or parts known as seconds or blemished goods, merchandise, or commodities, which goods, merchandise, or commodities have been rejected by the manufacturer of the goods, merchandise, or commodities as not being first class, unless there is displayed directly in connection with the name and description of the goods, merchandise, or commodities, a direct and unequivocal statement, phrase, or word which will clearly indicate that the goods, merchandise, or commodities so advertised are seconds or are blemished goods, merchandise, or commodities, or have been rejected by the manufacturer of the goods, merchandise, or commodities. Merchandise advertised, offered for sale, and sold as a unit or set consisting of more than 1 part or piece shall be sufficiently identified as not first class, within the meaning of this section, if advertised, offered for sale, and sold as a unit or set at the single price advertised, and displayed in connection with a direct and unequivocal statement, phrase, or word identifying the goods as not first class as required by this section.

History: 1976, Act 449, Eff. Jan. 1, 1978.

Popular name: Scanner Law

Popular name: Item Pricing Act

445.357 Discrimination in advertising real property; evidence; legal or equitable remedies.

Sec. 7. A person shall not make, publish, disseminate, circulate, or place before the public, an advertisement concerning the buying, selling, exchanging, or trading of real property if that advertising contains language expressing discrimination on the part of the seller concerning prospective buyers because of race, creed, color, national origin, sex, or marital status. This act shall not authorize the attorney general to assume facts not in evidence. The attorney general shall at all times bear the burden of proof to all charges made against a party. This act shall not diminish the right of a party to direct and immediate legal or equitable remedies in the courts of this state.

History: 1976, Act 449, Eff. Jan. 1, 1978.

Popular name: Scanner Law

Popular name: Item Pricing Act

445.358 Publication of advertisement in good faith and without knowledge of falsity or deception.

Sec. 8. This act shall not apply to an owner, publisher, printer, agent, or employee of a newspaper or other publication, periodical, circular, including those circulars prepared for national distribution, or outdoor advertising or of a radio or television station, who in good faith and without knowledge of the falsity or deceptive character of an advertisement, publishes, causes to be published, or takes part in the publication of an advertisement in violation of this act.

History: 1976, Act 449, Eff. Jan. 1, 1978.

Popular name: Scanner Law

Popular name: Item Pricing Act

445.359 Injunction; assurance of discontinuance; notice of violation; penalty; jurisdiction; rules.

Sec. 9. (1) The attorney general may maintain an action to enjoin a continuing violation of this act. If the court finds that the defendant is violating or has violated this act, it shall enjoin him from a continuance of that violation. It shall not be necessary that actual damages to a person be alleged or proved.

(2) A proceeding shall not be instituted for an injunction unless the attorney general has notified the defendant of his intention to seek an injunction if the defendant does not cease and desist or take positive action to cease and desist from continuing to act in violation of this act. The notice shall be given at least 48 hours before the filing of the action. An injunction shall not issue if the defendant has ceased or has taken positive action to cease and desist violating this act, upon receipt of the notice.

(3) The attorney general may accept an assurance of discontinuance of a practice alleged to be in violation of this act from the person engaging in, or who was engaged in, that practice. The assurance of discontinuance shall be in writing and be filed with the clerk of the circuit court of the county in which the alleged violator resides or has his principal place of business. A filing fee shall not be required for the filing of an assurance with the clerk of the circuit court. The assurance of discontinuance shall be signed by the person and shall contain a statement describing the acts or practices for which the assurance of discontinuance is being given and the specific sections of the law prohibiting those acts or practices. The assurance is not an admission of any fact or issue at law.

(4) A prosecuting attorney or law enforcement officer receiving notice of an alleged violation of this act, or of a violation of an injunction, order, decree, or judgment issued in an action brought pursuant to this section, or of an assurance under this act, shall immediately forward written notice of the violation together with any information he may have to the office of the attorney general.

(5) A person who knowingly violates this act or the terms of an injunction, order, decree, or judgment issued pursuant to this section shall forfeit and pay to the state a civil penalty of not more than \$1,000.00 for the first violation and not more than \$5,000.00 for the second and any subsequent violation. For the purposes of this section, the court issuing an injunction, order, decree, or judgment shall retain jurisdiction, the cause shall be continued, and the attorney general may petition for recovery of a civil penalty as provided by this section.

(6) The attorney general may promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, to implement and administer sections 5 to 12 of this act.

History: 1976, Act 449, Eff. Jan. 1, 1978.

Popular name: Scanner Law

Popular name: Item Pricing Act

Administrative rules: R 14.201 et seq. of the Michigan Administrative Code.

445.360 Declaratory judgment; injunction; damages; attorneys' fees.

Sec. 10. (1) Whether or not a person seeks damages or has an adequate remedy at law, a person may bring an action to do either or both of the following if the attorney general or prosecuting attorney fails to initiate action within 60 days after receiving notice of an alleged violation of this act:

(a) Obtain a declaratory judgment that a practice is in violation of this act.

(b) Enjoin by temporary or permanent injunction a person who is engaging or is about to engage in a practice in violation of this act.

(2) Except as provided in section 10a, a person who suffers loss as a result of a violation of this act may bring an individual or a class action to recover actual damages or \$250.00, whichever is greater, for each day on which violations of this act have been found together with reasonable attorneys' fees not to exceed \$300.00 in an individual action.

History: 1976, Act 449, Eff. Jan. 1, 1978;—Am. 1984, Act 344, Eff. Mar. 29, 1985.

Popular name: Scanner Law

Popular name: Item Pricing Act

445.360a Section applicable to sale at retail; conditions; conditions to bringing or joining in action; exception.

Sec. 10a. (1) Except as provided in subsection (3), this section applies to a sale at retail which meets all of the following conditions:

(a) There is a price stamped on or affixed to the item.

(b) The sale is recorded by an automatic checkout system.

(c) The buyer is given a receipt which describes the item and states the price charged for the item.

(2) Before bringing or joining in an action as provided in section 10(2), within 30 days after purchasing an item, a buyer who suffers loss because the price charged for the item is more than the price stamped on or affixed to the item shall notify the seller in person or in writing that the price charged is more than the price stamped or affixed. The notice shall include evidence of the loss suffered by the buyer. If, within 2 days after the notification, the seller tenders to the buyer an amount equal to the difference between the price stamped or affixed and the price charged, plus an amount equal to 10 times that difference but which is not less than \$1.00 or more than \$5.00, the buyer is barred from any further recovery for that loss. If the loss is suffered by 1 buyer within 1 transaction on 2 or more identical items, the amount to be tendered by the seller shall be the difference on each item, plus an amount equal to 10 times the difference on a single item but which is not less than \$1.00 and not more than \$5.00. If the seller does not tender this amount, the buyer may bring or join in an action as provided in section 10(2).

(3) This section does not apply to a sale at retail in which the seller intentionally charges more for an item than the price stamped on or affixed to the item.

History: Add. 1984, Act 344, Eff. Mar. 29, 1985.

Popular name: Scanner Law

Popular name: Item Pricing Act

445.361 Investigation and action by prosecuting attorney.

Sec. 11. A prosecuting attorney may conduct an investigation pursuant to this act and may institute and prosecute an action under this act in the same manner as the attorney general.

History: 1976, Act 449, Eff. Jan. 1, 1978.

Popular name: Scanner Law

Popular name: Item Pricing Act

445.362 Other causes of action not affected; liberal construction; inconsistent ordinance or regulation prohibited.

Sec. 12. This act shall not affect any other cause of action which is available and shall be liberally construed to effectuate its purpose. A city, village, township, or county shall not enact an ordinance or other regulation inconsistent with this act or with a rule promulgated under this act.

History: 1976, Act 449, Eff. Jan. 1, 1978.

Popular name: Scanner Law

Popular name: Item Pricing Act

445.362a Provisions inapplicable to nonprofit food cooperatives.

Sec. 12a. This act shall not apply to nonprofit food cooperatives.

History: Add. 1979, Act 193, Imd. Eff. Dec. 21, 1979.

Popular name: Scanner Law

Popular name: Item Pricing Act

445.363 Repeal of §§ 445.801 to 445.809.

Sec. 13. Act No. 241 of the Public Acts of 1966, being sections 445.801 to 445.809 of the Compiled Laws of 1970, is repealed.

History: 1976, Act 449, Eff. Jan. 1, 1978.

Popular name: Scanner Law

Popular name: Item Pricing Act

445.364 Effective date.

Sec. 14. This act shall take effect January 1, 1978.

History: 1976, Act 449, Eff. Jan. 1, 1978.

Popular name: Scanner Law

Popular name: Item Pricing Act

נספח מס' 7

חוק סימון מחירים של מדינת מסצ'וסטס, ארה"ב

GENERAL LAWS OF MASSACHUSETTS

PART I.

TITLE XV. REGULATION OF TRADE

CHAPTER 94

INSPECTION AND SALE OF FOOD, DRUGS AND VARIOUS ARTICLES

MARKING OF PACKAGES CONTAINING FOOD

Chapter 94: Section 184B Definitions applicable to sections 184B—184E

Section 184B. For purposes of this section and sections 184C to 184E, inclusive, the following words shall have the following meanings:

"Automatic checkout system," a cash register, computer, terminal, or other device capable of interpreting the universal product code, or any other code which is on an item offered for sale used to determine the price of the item being purchased, regardless of whether the code entry is accomplished manually, or automatically by a machine.

"Coded", any symbol, letter, number or combination thereof other than the price itself which is stored in and interpretable by the seller's automatic checkout system.

"Correct price", the advertised price in any circular, newspaper, magazine, television or radio commercial, or in any other medium, or any published correction thereof. If an item is not advertised, the correct price shall be the lowest price indicated on any store sign for the item, but not if such item is rung up at a lower price. If no sign is displayed, the correct price shall be the price of the item on its displayed unit price label, but not if such item is rung up at a lower price. If no unit price label is displayed, the correct price shall be the price rung up by the food store's or food department's automatic checkout system. If the foregoing provisions for establishing the correct price are not determinative in a particular situation, the correct price shall be the price on the seller's current price list.

"Display", two or more units of an item located together. A display shall be deemed to be checked after the correct price is ascertained and one or more units are removed from the display and examined for accurate price markings.

"End-aisle display", a display of a specific item consisting of at least fifty units, not including units in closed cartons or otherwise inaccessible to the consumer which is located in a freestanding display or at the end of, or adjacent to, a shelved tier of groceries or other items.

"Food", anything edible.

"Food department", any seller other than a food store with any grocery item section, area, or display and which sells ten or more different food items for consumption off the seller's premises at least in part to individuals for their own personal, family, or household use; provided, however, that any food section which is within a larger business and is the functional equivalent of a supermarket with its own separate checkout, may be deemed a food store by the director of standards.

"Food store", any store, shop, supermarket, grocer, convenience store, warehouse-type seller, club, outlet, or other seller, whose primary business is selling either food for consumption off the seller's premises alone or in combination with grocery items or other nondurable items typically found in a supermarket, and such items are sold at least in part to individuals for their own personal, family, or household use.

"Grocery items", any food, pet food or supply, soap, household cleaner of any type, laundry product, light bulbs, or disposable paper or plastic products.

"Gross error", a price which is less than half the price stated by the seller as the actual selling price, and which was never intended as the selling price at any time during the previous thirty day period.

"Item", a specific and distinct product, good or commodity. One item is differentiated from another by having a different universal product code for items so coded; and for items not so coded, the item has any distinguishing characteristics compared to another item.

"Represented price", any price represented to a consumer as the actual selling price including the price on any sign, price tag, unit price label, advertisement, item, or cash register display.

"Rung up", the price on a cash register or terminal sales slip or display which indicates the price the consumer will be charged for each item; provided, however, that such price is not the result of a keypunching error by the cashier or inspector.

"Unit", a single piece of an item, such as one can, package, bag, or multi-pack.

GENERAL LAWS OF MASSACHUSETTS

PART I. ADMINISTRATION OF THE GOVERNMENT

TITLE XV. REGULATION OF TRADE

CHAPTER 94

INSPECTION AND SALE OF FOOD, DRUGS AND VARIOUS ARTICLES

MARKING OF PACKAGES CONTAINING FOOD

Chapter 94: Section 184C Price marking of food and grocery items

Section 184C. Except as hereinafter provided, every item in a food store and every grocery item in a food department offered for sale, whether edible or not, shall have each unit individually marked with the correct selling price. All prices represented to the consumer for the same item shall be consistent with each other and to the price rung up and charged for the item. The seller shall be responsible for the completeness and accuracy of all price marking.

The following classes of items are exempt from the price marking requirement of this section; provided, however, that the cashier can readily discern the price of the exempted item, that no exempted item is marked with an incorrect price, that the exempted item is on a current price list maintained by the seller as hereinafter provided and that a clear and conspicuous separate sign, or a single sign in the case of similar items all priced the same, larger than the seller's regular unit price label with the price no smaller than one inch high, is placed at the point of display of each exempted item containing the name of the item, the correct price, and, if appropriate, the size or other distinguishing information:--

(1) unpackaged: produce, meat, fish, poultry, delicatessen, bakery items, and any other unpackaged items offered from a bulk display, except that any such item weighted or wrapped to order by the food store or food department but paid for at a place other than at the point of such weighing or wrapping shall have the correct price marked on the item;

(2) gallons and half gallons of milk;

(3) eggs;

(4) cigarettes, cigars, tobacco and tobacco products;

(5) individual units within a multi-unit package if the package is correctly price marked;

(6) snack foods such as cakes, gum, candy, chips, and nuts if offered for sale individually, weigh less than three ounces, cost seventy-five cents or less, and are located at the checkout area;

(7) individual greeting cards; provided, however, that such cards are marked with a price code readily understandable by the consumer;

(8) individual glass jars of baby food of the same brand and price where vegetable or fruit is the predominant ingredient other than water, but not including juices; provided, however, that if offered for sale by a seller with an automatic checkout system they are coded, or if offered by a seller without such system, they are on an easily referenced price list at each cash register;

(9) soft drink bottles and cans; provided, however, that items are fully and accurately price marked at their regular shelf location and the seller maintains a list of such items as required by section one hundred and eighty-four D;

[Clause (10) of second paragraph effective until November 17, 2004. For text effective November 17, 2004, see below.]

(10) not more than sixty items that are located in end-aisle displays; provided, however, that if offered for sale by a seller with an automatic checkout system they are coded, or if offered by a seller without such system they are on an easily referenced price list at each cash register; and provided, further, that such items are fully and accurately price marked at their regular shelf location, and the seller maintains a list of such items as required by section one hundred and eighty-four D. Said sixty item limit shall be reduced by seventy-five percent in the case of a food department. For the purpose of determining whether a seller has exceeded said sixty item limit, units of an item which differ only by color, flavor or scent shall be considered the same item if they are otherwise identical in all respects including price, size, and brand, unless in a particular case the director of standards determines that such units are different items.

[Clause (10) of second paragraph as amended by 2004, 322 effective November 17, 2004. For text effective until November 17, 2004, see above.]

(10) not more than sixty items that are located in end-aisle displays; provided, however, that if offered for sale by a seller with an automatic checkout system they are coded, or if offered by a seller without such system they are on an easily referenced price list at each cash register; and provided, further, that such items are fully and accurately price marked at their regular shelf location, and the seller maintains a list of such items as required by section one hundred and eighty-four D. Said sixty item limit shall be reduced by seventy-five percent in the case of a food department. For the purpose of determining whether a seller has exceeded said sixty item limit, units of an item which differ only by color, flavor or scent shall be considered the same item if they are otherwise identical in all respects including price,

size, and brand, unless in a particular case the director of standards determines that such units are different items;

[Clause (11) of second paragraph added by 2004, 322 effective November 17, 2004.]

(11) frozen food products.

GENERAL LAWS OF MASSACHUSETTS

PART I.

TITLE XV. REGULATION OF TRADE

CHAPTER 94

INSPECTION AND SALE OF FOOD, DRUGS AND VARIOUS ARTICLES

MARKING OF PACKAGES CONTAINING FOOD

Chapter 94: Section 184D Food stores or departments utilizing automatic checkout systems; exempt items; violations

Section 184D. In addition to the exemptions in section one hundred and eighty-four C, food stores or food departments which, for a majority of the items offered for sale, utilize an automatic checkout system which is at least ninety-five per cent accurate as determined by the director of standards may also exempt up to a maximum of four hundred additional items; provided, however, that they are coded and subject to the following limitations and qualifications and those in section one hundred and eighty-four C:

(1) The exact number of additional exempt items allowed by this section shall be based on the number of operable cash registers or terminals located at the seller's main checkout location, but not to exceed four hundred. Cash registers at the seller's courtesy desk, or otherwise away from the main checkout location, if the seller maintains such main checkout location, shall not be included in the calculation, unless approved by the director of standards.

Sellers with one operable cash register shall be allowed to exempt twenty additional items of their own choosing. Sellers with two, three to four, or five to six operable cash registers shall be allowed to exempt fifty, one hundred or two hundred additional items respectively. Sellers with seven or more operable cash registers may exempt up to four hundred additional items. In the case of a food department, the number obtained in the above calculation shall be reduced by seventy-five per cent. In no case shall the number of exemptions permitted by this exception exceed four and one-half per cent of the number of packaged grocery items carried by the seller.

(2) Any food store or food department permitted to exempt additional items under this section shall establish at each store location a dated written list of the items it has chosen to exempt. The list shall include a readily understandable description of each item and the code number understood by the seller's automatic checkout system. The list shall be maintained so that any item may be referenced easily. Deletions may be made from the list at any time, but no additions, substitutions, or changes may be made to the list except twice a year in January and July starting with July nineteen

hundred and eighty-seven. The exemption permitted by this section shall not apply to any item not on that list and shall not apply unless such list has been established and is available upon request at the store to any consumer or any representative authorized by the director of standards. The director of standards may require the periodic filing of such list with his office. No seller may choose to exempt items required to be price marked by other laws or regulations governing specific types of items, or may exempt more than two hundred items in any one department except in the dry grocery department.

(3) All food stores and food departments shall maintain a current and accurate price list of all items exempted under the provisions of section one hundred and eighty-four C and this section. Such list may be maintained in any reasonable manner, including by an automatic checkout system or merged with nonexempt items; provided, however, that information contained therein can be referenced easily by the person requesting it. All food stores and food departments shall also maintain a separate, current, written or printed list of the items it chooses to exempt under the provisions applying to end-aisle displays. Such lists shall be made available upon request to any representative authorized by the director of standards, and the price for any item contained therein shall be provided to any person upon request.

(4) Violations of the provisions of section one hundred and eighty-four B to one hundred and eighty-four E, inclusive, for which fines shall be levied shall include: having no price marked on any unit that is required to be priced and is not exempted; having an incorrect price on any unit; having an incorrect or missing sign; or overcharging on any unit. A unit shall be deemed to be overcharged once it is rung up at a price higher than any represented price.

There shall be a tolerance for error on all fineable violations discovered during an in-store inspection except overcharging. In the case of a display checked for unmarked and incorrectly marked units, the tolerance shall be such that the one display of an item most in violation out of each twenty displays checked shall be excluded in computing that fine. Said tolerance shall not be less than one display per inspection. In the case of a violation for incorrect or missing signs, the tolerance for error shall be calculated such that the number of sign violations actually found among those checked shall be reduced by ten per cent, but by not less than one violation, and such violations omitted shall be excluded in computing any fine. Each unit or sign in violation shall constitute a separate violation; provided, however, that no item may be subject to violations for both overcharging and incorrect price markings. Multiple units from the same display of an item which are found in violation of the same infraction shall be considered one fineable violation. An inspector may inspect any or all units in any display of any item. The seller shall allow the inspector access to the seller's automatic checkout system.

GENERAL LAWS OF MASSACHUSETTS

PART I.

TITLE XV. REGULATION OF TRADE

CHAPTER 94

INSPECTION AND SALE OF FOOD, DRUGS AND VARIOUS ARTICLES

MARKING OF PACKAGES CONTAINING FOOD

Chapter 94: Section 184E Inspections; fines; price accuracy guarantee; regulations

Section 184E. Any representative authorized by the director of standards may conduct inspections of any item and shall issue notices of violation to any food store or food department for any violation of this section and sections 184B to 184D, inclusive, provided, however, that no food store or food department shall be inspected more than once a week. Violations shall be punished for the first offense by a fine of \$100, for the second offense by a fine of \$250, and for a subsequent offense, by a fine of \$500. Notwithstanding the method for determining the amount of civil fines pursuant to section 29A of said chapter 98, a civil citation may be issued for \$100 for each violation, up to a maximum of \$2,500 per inspection. For purposes of this section each item which scans erroneously shall constitute a separate civil violation. The seller shall immediately correct all violations including those where a tolerance was granted.

In the case of any verified consumer complaint, fines for overcharging shall be limited to one violation per item. A fine shall be issued without allowance for tolerance upon verification of any consumer complaint alleging overcharging or improper price marking except for those units where the seller gave the consumer the units tendered for purchase free under a qualified price accuracy guarantee.

The director of standards may require sellers to disclose a consumer's rights under the provisions of this section and sections one hundred and eighty-four B to one hundred and eighty-four D, inclusive.

Any food store or food department which maintains and complies with the terms of a qualified price accuracy guarantee in the form prescribed below, and posts an explanation of such price accuracy guarantee at each cash register or terminal, shall have all per violation fines reduced by fifty per cent. If the director of standards determines that a food store or food department is either intentionally or through gross negligence violating any provisions of this section and sections one hundred and eighty-four B to one hundred and eighty-four D, inclusive, all the store's exemptions shall be rescinded for a period of twelve months, and the matter shall be referred to

the attorney general for action against such food store or food department. Uncontested fines levied under said sections shall be paid within thirty days of issuance of the notice of violation. Any aggrieved seller may appeal any unjustified fines to the director of standards if such appeal is filed within thirty days of issuance of the notice of violation. If the grounds for appeal are determined to be without reasonable basis, the fine shall be doubled.

A qualified price accuracy guarantee at a minimum is one which immediately gives any consumer one unit free of every different item which was either (a) rung up at a price higher than the lowest price marked on the unit, and for unmarked units, the price on any sign or unit price label; or (b) rung up at a price higher than the price advertised for the item. Sellers may elect option (a) or (b), or both, but option (b) may only be elected alone if the seller advertises at least fifty packaged grocery sale items each week not including meat and produce. To take advantage of the guarantee, the consumer need only point out the over-charge to the cashier.

All food stores and food departments shall provide an itemized sales slip to all consumers indicating at a minimum the price charged for each item or unit. No food store or food department shall refuse to sell any unit tendered for purchase at the lowest price represented to the consumer by the seller or supplier; provided, however, that the seller shall have no obligation to sell such unit at the lowest represented price if it is the result of a gross error, if it is based on the price marked on another unit of the same item and the tendered unit is marked only with a higher price, or if the price tag, label, or sign shows evidence of obvious physical tampering, or if it is given away free under a price accuracy guarantee.

This section and sections one hundred and eighty-four B to one hundred and eighty-four D, inclusive, shall only apply to food stores and to grocery items in food departments. Said sections shall not diminish any obligations under other laws or regulations regarding item pricing for sellers other than food stores or for items other than grocery items in food departments. The director of standards shall not issue a fine pursuant to this section and said sections one hundred and eighty-four B to one hundred and eighty-four D, inclusive, and section fifty-six D of chapter ninety-eight for the same violation. Where a seller is also subject to the item pricing regulations or guidelines of another agency, in cases where a specified number of items is allowed to be exempted under two similar exceptions to the requirement of item pricing, such similar provisions shall not be additive. Compliance with another agency's regulations or guidelines which differ from said sections or any regulations issued hereunder by the director of standards shall not be a defense to a violation of said section or any regulations promulgated hereunder.

The director of standards may promulgate regulations or issue guidelines for the implementation or interpretation of said sections.

Failure to comply with any of the provisions of said sections shall constitute a violation and an unfair or deceptive act or practice under the provisions of chapter ninety-three A.

HOUSE, No. 4461

HOUSE OF REPRESENTATIVES

January 22, 2004.

The committee on Commerce and Labor, to whom were referred the petition (accompanied by bill, Senate, No. 66) of Brian P. Lees, Guy W. Glodis, Michael R. Knapik, Bruce E. Tarr and Jo Ann Sprague for legislation to further regulate certain consumer product pricing, the petition (accompanied by bill, House, No. 495) of Michael J. Rodrigues, Rachel Kaprielian, Thomas M. Petrolati, Colleen M. Garry and Reed V. Hillman relative to the use of electronic shelf displays at retail food stores and food departments, and the petition (accompanied by bill, House, No. 2918) of Colleen M. Garry and Thomas M. Petrolati relative to consumer product pricing practices, reports recommending that the accompanying bill (House, No. 4461) ought to pass.

For the committee,

MICHAEL J. RODRIGUES.



The Commonwealth of Massachusetts

In the Year Two Thousand and Four.

AN ACT RELATIVE TO CONSUMER PROTECTION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 94, section 184B, as so appearing, is hereby amended by inserting at the end thereof the following definition:

“Retail Store”, a store selling any item at retail including any businesses selling non-food items under other applicable Massachusetts law and regulations. A store which is not open to the general public but is reserved for use by its members shall come

within the provisions of this definition unless the members must pay a direct fee to the store to qualify for membership and the store is not required to collect sales tax on transactions with members. Pursuant to this section a retail store shall not include any store which engages primarily in the sale of food for consumption on the premises or in a specialty trade.

Chapter 94, section 184C, as so appearing, is hereby amended by inserting the following words “, retail store” after the word “store” in line 2.

Chapter 94, section 184C, as so appearing, is hereby amended by striking subsection (10) in its entirety and replacing it with the following:

(10) Items that are located in end-aisle or other freestanding displays; provided, however, that if offered for sale by a seller with an automatic checkout system they are coded, or if offered by a seller without such system they are on an easily referenced price list at each cash register; and provided, further, that such items are fully and accurately price marked at their regular shelf location, and the seller maintains a list of such items as required by section one hundred and eighty-four D.

Chapter 94, section 184C, as so appearing, is hereby amended by inserting at the end thereof the following sections:

(11) Unpackaged items sold by length or area, such as chain, rope, flooring, lumber or fabric on a bolt, with a clear and conspicuous “price per” marked on the bolt or at the point of display.

(12) Unpackaged items sold by weight or volume from a bulk container or source, such as stone or soil, with a clear and conspicuous “price per” marked on the container or at the point of display.

(13) Items that must be retrieved for the consumer by store staff, such as large electronics or appliances, where the display or representative items or items displayed in a locked case or out of reach of consumers.

(14) Packaged self-service items that are small in size and are offered for sale within five feet of the cash register, with a clear and conspicuous “price per” marked on the container or at the point of display.

(15) Unpackaged items which have a weight of not more than 3 ounces, and/or a price of not more than 75 cents, with a clear and conspicuous “price per” marked on the container or at the point of display.

(16) Live animals and items sold in a coin operated vending machine, with a clear and conspicuous “price per” marked on the container or at the point of display.

(17) Items offered temporarily at an advertised reduced price.

(18) An additional 5% of items offered for sale, provided that a clear and conspicuous separate sign or a single sign in the case of similar items all priced the same, with the price no smaller than three eighths of an inch high, is placed at the point of display of

each exempted sale item, identifying the item by its brand name and model number, if applicable, and SKU or UPC number; and further provided, that the store maintains a current and accurate price list of all items exempted under this provision. The seller may maintain such a list in any reasonable manner, provided that information contained on the list can be referenced easily by the person requesting it. The seller shall make the list available at the service desk for public inspection. An SKU number may substitute for the UPC number if the SKU is marked on the item.

Chapter 94, section 184D, as so appearing, is hereby amended by inserting the following words “or retail stores” after the phrase “food stores or food departments” in lines 2, 43, and 49 in each instance.

Chapter 94, section 184D, as so appearing, is hereby amended by inserting the words “or retail store” after the phrase “food store and food department” in line 26.

Chapter 94, section 184E, as so appearing, is hereby amended by inserting the words “or retail store” after the phrase “food store and food department” in lines 3, 5, 23, 28, 33 and 51 in each instance.

Chapter 94, section 184E, as so appearing, is hereby amended by inserting the words “or retail stores” after the phrase “food stores and food departments” in line 49.

Chapter 94, section 184E, as so appearing, is hereby amended by inserting the words “, retail stores” after the words “food stores” in line 60.

Chapter 94, section 184E, as so appearing, is hereby amended by striking the second sentence of the first paragraph and replacing it with the following sentence:

“Notwithstanding the provision of any law or regulation to the contrary, violations of section 184C shall be punished for the first offense by a fine of \$200, for the second offense by a fine of \$500, and for a subsequent offense, by a fine of \$1,000.”

Chapter 94, section 184E, as so appearing, is hereby amended by striking the third sentence of the first paragraph and replacing it with the following sentence:

“Notwithstanding the method for determining the amount of civil fines pursuant to section 29A of said chapter 98 and notwithstanding the provision of any law or regulation to the contrary, a civil citation may be issued for not less than \$100 and not more than \$200 for each violation, up to a maximum of \$5,000 per inspection.”

Chapter 94, as so appearing, is hereby amended by inserting at the end thereof the following sections:

Section 329A.

- (a) “Deputy Director” shall mean the Deputy Director of the division of standards.
- (b) “Person” shall mean an individual, firm, partnership, association or corporation.
- (c) “Division” shall mean the division of standards.

(d) “Computer-assisted check out system” shall mean any electronic device, computer system or machine which determines the selling price of any item interpreting its universal product code, any other code, or by any other use of a price look-up function.

(e) “Inspector” shall mean the Deputy Director or authorized agent to enforce the provisions of this chapter.

(f) “Item price” shall mean the lowest indicated price on a shelf tag, sign or advertisement.

(g) “Price look-up function” shall mean the capability of any checkout system to determine the retail price of an item electronically or by way of the manual entry into the system of a code number assigned to that particular unit by the retail store or by way of the checkout operator’s consultation of a file maintained at the point of sale.

(h) “Retail store” shall mean a store selling any item at retail including food and non-food items. A store which is not open to the general public but is reserved for use by its members shall come within the provisions of this definition unless the members must pay a direct fee to the store to qualify for membership and the store is not required to collect sales tax on transactions with members. Pursuant to this section a retail store shall not include any store which engages primarily in the sale of food for consumption on the premises or in a specialty trade, which the Deputy Director determines, by regulation, would be inappropriate for item pricing.

(i) “Item” shall mean a specific and distinct product, good or commodity. One item is differentiated from another by having a different universal product code for items so coded, and for items not so coded, the item has any distinguishing characteristics compared to another item.

(j) “Electronic product coding” shall mean any system of coding which entails electronic pricing.

(k) “Self-service price check scanner” shall mean a device to be utilized by shoppers which reads the electronic or universal product code on a product, retrieves the correct price from the seller’s automatic checkout system or computer, displays the correct price on a readout panel, and has either a grease pencil attached to the device for shoppers to use in marking the price on an item or an alternative method by which a shopper may record the price of an item. Such alternative method shall be subject to the approval of the Deputy Director.

(l) “Self-service price check scanner with printing capabilities” shall mean a device to be utilized by shoppers which reads the electronic or universal product code on a product, retrieves the correct price from the seller’s automatic checkout system or computer, displays the correct price on a readout panel, and is capable of printing an adhesive price sticker with the correct price and product description.

Section 329B.

(a) No retail store shall charge a price for any item, which exceeds the lowest of any item, shelf, scanned, sale or advertised price of such item. In the event that the price charged exceeds the lowest price a store is permitted to charge for the item, the store will be subject to a penalty as described in this chapter and other applicable law at the discretion of the Deputy Director.

(b) In a store utilizing computerized laser scanning or other electronic assisted checkout system, the inspector shall be permitted to compare the item, shelf, sale, or advertised price of any item sold in the store with the programmed price.

(c) The Deputy Director shall establish a randomized store inspection procedure designed to eliminate any bias in selecting stores to be inspected for price auditing purposes. However, any retail store may be inspected at any time upon complaint or if the Deputy Director has sufficient cause to audit a particular store or stores to ensure pricing accuracy.

Section 329C.

(a) Every person, store, firm, partnership, corporation, or association which uses a computer-assisted checkout system and which would otherwise be required to item price as provided in sections 184B through 184E, inclusive, of chapter 94, or other applicable Massachusetts law or regulation promulgated hereunder, may make an application in writing to the Deputy Director for a waiver of said item pricing requirement. A separate application shall be required for each store. An annual registration fee must be submitted with the initial application and subsequent renewal. The Deputy Director shall approve or reject the application within sixty days from the date of receiving the application. If the application is rejected, the application fee shall be returned. Pursuant to the regulations promulgated under this chapter, the Division will require that each applicant complete a “no job loss” affidavit stating the number of people employed at the time of the application process. After the filing of the affidavit, if there is any resulting job loss at the store due to the implementation of the waiver, not attributed to seasonal employment or verifiable economic pressures, the store will be required to item price pursuant to sections 184B through 184E, inclusive, of chapter 94, or other applicable Massachusetts law or regulation promulgated hereunder, and be subject to a fine of not more than five thousand dollars.

(b) The registration fee is based upon the number of cash registers in each store as set according to the following schedule and exemption:

i. Waiver Fee Cash Register Schedule:

One to four cash registers \$2,500

Five or more cash registers \$5,000

ii. An applicant shall be exempt from submitting the annual waiver fee if shown at the time of each application to be a retail store with annual sales revenue equal to or less than \$5,000,000 of in-store sales, as verified by its most recent Massachusetts tax

return. For a retail store with more than one location engaged in a unitary business, such sales volume shall be reported as the aggregate of all sales reported by all locations.

(c) Waiver applications and the required fee or acceptable proof of fee exemption must be received at the division by October 1, 2004, and annually thereafter. Stores that fail to comply with the required registration, do not renew an application, or fail to pay the annual renewal fee will be subject to the item pricing requirements and violations pursuant to sections 184B through 184E, inclusive, of chapter 94, or other applicable Massachusetts law.

(d) A waiver from item pricing shall be valid for a period of one year from the date of issuance. Stores must reapply annually for renewal of waiver at the rates and procedures established in section 329C(b).

(e) Systems approved by the Deputy Director must have means to provide an audit trail regarding item price changes that can be accessed by state enforcement agents upon request. All food and grocery item prices once entered into the store's electronic pricing system shall remain unchanged for a minimum of seventy-two hours, unless the price is to be reduced or is the result of a gross pricing error as defined in chapter 94, section 184B.

(f) Any registered retail store that fails to meet the stated price accuracy standard of 98 per cent, not including any under charges, based on the price accuracy inspection procedure adopted by the Division shall be re-inspected after thirty days of the failed inspection. If the store fails upon re-inspection to meet the price accuracy standard, the registration of such store may be suspended for a period of six months. During the suspension period, the store will be required to individually item price every item offered for sale pursuant to sections 184B through 184E, inclusive, of chapter 94, or other applicable Massachusetts law. After payment of fifty percent of the original application fee as provided for in section 329C(b), the store can request the Division in writing to be re-inspected. If the store after re-inspection meets the price accuracy standard, the registration may be re-instated.

(g) As a condition of the waiver from item pricing pursuant to this section, each retail store which accepts a waiver must agree to meet the following requirements:

i. The store shall designate and make available self-service price check scanners to enable consumers to confirm the price of an item. Stores that are arranged in an aisle format shall have one self-service price check scanner located on one end of every other aisle in those areas exempted under the waiver. Stores that are arranged in a format other than in aisles shall have one self-service price check scanner per five thousand square feet in those areas exempted under the waiver. Stores that are arranged in a combination of aisles and other formats shall have a number of self-service price check scanners that is within the discretion of the Deputy Director. All stores shall have at least two self-service price check scanners. At least one of the self-service price check scanners shall have printing capabilities. These self-service price check scanners shall be strategically located in locations convenient to consumers with signs of sufficient sized lettering identifying these units to consumers.

Stores will submit their proposed sign and device locations in a schematic diagram to the Deputy Director for approval with the waiver application.

ii. The store shall place a clear and conspicuous separate sign, shelf tag or unit price tag for the item, or a single sign in the case of similar items all priced the same, with the price no smaller than three eighths of an inch high, at the point of display of each such item, disclosing the price or discount of such item and information sufficient to identify the item which may include the brand name, model number if applicable, or electronic product code.

iii. Each registrant shall verify the accuracy of all sale prices in the store's electronic processing system prior to the start of any sale. Each registrant shall either assign an employee to check all sale prices in the store's electronic pricing system prior to the start of any sale and maintain a sale price log including the following: name of the store employee, date the employee performed the pre-sale price accuracy audit, and the signature of the employee; or establish a reasonable process to verify the accuracy of all sale prices prior to the start of any sale subject to guidelines established by the Deputy Director. Failure to establish such a process or make that process available upon request by any authorized agent of the Deputy Director may be cause for registration suspension.

iv. The store shall not charge any customer a price for any item, which exceeds the item, shelf, sale or advertised price.

v. The store shall make prompt payment to consumers who have been overcharged and shall correct all pricing errors identified by consumers, guaranteeing the consumer the item free if it costs less than \$10 or \$10 off the item if the item costs more than \$10. The price accuracy guarantee must be conspicuously posted at each cash register and at each self-service price check scanner.

vi. If an item rings up higher than the lowest advertised price, the store will be subject to a fine of no more than \$200.

vii. If a store fails to post the required item price sign at the point of display, the store will be subject to a fine of not more than \$100 per item. However, if the item, which was a result of the failure to post a required item price sign at the point of display, rings up at a price higher than the lowest price charged for that item during the previous thirty days, the fine will be increased to no more than \$200.

viii. For items that cannot easily be carried to an electronic scanner because of their size or weight, the seller must provide a scannable card or other device at the point of display of the item, so that a consumer can take the card or device to the self-service price check scanner.

ix. Each registrant shall make available to customers written information explaining the item pricing waiver and use of self-service price check scanners. Stores shall submit their proposed written information to the Deputy Director for approval with the waiver application.

(h) In no event shall a single act or violation of sections 329A through D inclusive, or 184B through E inclusive or section 56D of Chapter 98 result in the imposition of multiple fines or penalties.

(i) The Deputy Director, in his discretion, may revoke a waiver from item pricing for cause including but not limited to any of the following reasons:

i. Failure to comply with any provisions of this chapter;

ii. Deliberate overcharging of any consumer; or

iii. Material misrepresentation in the application for a waiver.

Section 329D.

(a) The provisions of this chapter shall be enforced by the division. Upon representation of appropriate credentials, the division's inspectors and agents shall have the right to enter upon the premises of any retail store to make an inspection and to determine compliance with the provisions of this chapter.

(b) For the purpose of determining a store's compliance with the requirement to disclose the item price to the consumer, an inspection shall be conducted of a sample of no less than twenty-five items.

(c) No item shall be cited more than once in a forty-eight hour period for not disclosing the item price to the consumer.

(d) For any inspection under section 329B, the store representative shall afford the inspector access to the test mode of the checkout system in use at that store or to a comparable function of said system and to the retail price information contained in a price look-up function.

(e) The inspector shall have the authority to issue a stop sale order with respect to any item being used, handled, or offered for sale in violation of section 329B and for not disclosing the item price to the consumer. Any such order shall be in writing and direct that the item shall be removed for sale pending price correction.

(f) The division shall retain up to ten percent of all registration fees and fines collected not to exceed \$2,500,000 annually. The retained revenue collected may be used by the division to support its enforcement activities and for grants to approved agents to assist the division in the enforcement of the provisions of this law. Any revenue generated on an annual basis over this amount shall revert to the General Fund.

(g) A hearing may be requested in writing on any fineable violation or registration suspension issued by the division. The division's designated hearing officer will conduct the hearing. The division's designated hearing officer shall make a written determination. Such determination may be appealed to the Deputy Director who, after due deliberation, shall issue an order accepting, modifying, or rejecting the hearing

officer's determination. If the grounds for appeal are determined to be without reasonable basis, the fine shall be doubled.

נספח מס' 8

חוק סימון מחירים של מדינת קונטיקט, ארה"ב

State of Connecticut General Assembly

Committee Bill No. 5193

January Session, 2001

LCO No. 3125

Referred to Committee on General Law

AN ACT CONCERNING THE USE OF BAR CODE SCANNING MACHINES.

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

Section 21a-79 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) For the purposes of this section,

(1) "consumer commodity" and "unit of a consumer commodity" [shall] have the same meaning as in section 21a-73, except that consumer commodity [shall] does not include alcoholic liquor, as defined in subdivision (3) of section 30-1, or a carbonated soft drink container;

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

(3) "universal product coding" [shall mean] means any system of coding [which] that entails electronic pricing;

(4) an electronic shelf labeling system is an electronic system [which] that utilizes an electronic device attached to the shelf or at any other point of sale, immediately below or above the item, [which] that conspicuously and clearly displays to the consumer the unit price and the price of the consumer commodity. Such electronic shelf labeling system reads the exact same data as the electronic cash register scanning system; and

(5) an electronic pricing system is a system [which] that utilizes the universal product coding bar code by means of a scanner in combination with the cash register to record and total a customer's purchases.

(b) (1)

(A) Any person, firm, partnership, association or corporation [which] that utilizes universal product coding in totaling a retail customer's purchases shall mark or cause to be marked each consumer commodity which bears a Universal Product Code with its retail price.

(B) Any person, firm, partnership, association or corporation that utilizes an electronic pricing system in totaling a retail consumer's purchases shall provide each consumer with an item-by-item digital display, plainly visible to the consumer, of the price of each consumer commodity or carbonated soft drink container, or both, selected for purchase by such consumer prior to accepting payment from such consumer for such commodity or container.

(2) The provisions of subparagraph (A) of subdivision (1) of this subsection shall not apply if:

(A) The Commissioner of Consumer Protection, by regulation, allows for the utilization of electronic shelf labeling systems;

(B) a retailer is granted approval to utilize an electronic shelf labeling system by the commissioner; and

(C) the retailer has demonstrated to the satisfaction of the commissioner that such electronic shelf labeling system is supported by an electronic which utilizes universal product coding in totaling a retail customer's purchases.

(3) Consumer commodities [which] that are advertised in a publicly-circulated printed form as being offered for sale at a reduced price for a minimum seven-day period need not be individually marked at such reduced retail price, provided such consumer commodities are individually marked with their regular retail price and a conspicuous sign is adjacent to such consumer commodities, which sign discloses:

(A) The reduced retail price and its unit price; and

(B) a statement that the item will be electronically priced at the reduced price by the cashier.

(4) If a consumer commodity is offered for sale at a reduced price, in accordance with subdivision (3) of this subsection and its electronic price is higher than the reduced price on the sign which is adjacent to the consumer commodity, then one item of such consumer commodity shall be given to the consumer upon demand at no cost. A conspicuous sign shall adequately disclose to the consumer that in the event the electronic price is higher than the reduced retail price, one item of such consumer commodity shall be given to the customer upon demand at no cost.

(c)

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

(2) The Commissioner of Consumer Protection may adopt regulations in accordance with the provisions of chapter 54 designating not more than ten consumer commodities [which] that need not be marked in accordance with subdivision (1) of subsection (b) of this section and specifying the method of providing adequate disclosure to consumers to insure that the electronic pricing of the designated

consumer commodities is accurate. The commissioner may establish by regulation methods to protect consumers against electronic pricing errors of such designated consumer commodities and to insure that the electronic prices of such designated consumer commodities are accurate. Among the methods [which] that the commissioner may consider are conditions similar to those set forth in subdivision (4) of subsection (b) of this section.

(d) The Commissioner of Consumer Protection, after providing notice and conducting a hearing in accordance with the provisions of chapter 54, may issue a warning citation or impose a civil penalty of not more than one hundred dollars for the first offense and not more than five hundred dollars for each subsequent offense on any person, firm, partnership, association or corporation [which] that violates any provision of subsection (b) of this section or any regulation adopted pursuant to subsection (c) of this section. Any person, firm, partnership, association or corporation [which] that violates any provision of subsection (b) of this section or any regulation adopted pursuant to subsection (c) of this section shall be fined not more than two hundred dollars for the first offense nor more than one thousand dollars for each subsequent offense. Each violation with respect to all units of a particular consumer commodity on any single day shall be deemed a single offense.

Statement of Purpose:

To provide consumers with a way to check for scanning errors during check out.

[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.]

Co-Sponsors:

REP. ABRAMS, 83rd Dist.

נספח מס' 9

חוק סימון מחירים של מחוז אלבני, מדינת ניו יורק, ארה"ב

Department of Consumer Affairs

Albany County Office Building

112 State Street, Suite 1207-08

Albany, New York 12207

Voice (518) 447-7581 / Fax (518) 487-5048

Local Law No. 1 For 1992

A Local Law Requiring Item Pricing by Retail Stores in The County Of Albany

By Messrs. Haines, Stackrow and Prentiss, Ms. Denison and Finance Committee:

Be It Enacted by the County Legislature of the County of Albany as follows:

Section 1. Title.

This Law shall be known as the “Albany County Item Pricing Law”

Section 2. Legislative Intent.

This Law recognizes that clear, accurate item pricing is a basic consumer right which is no longer protected under State Law. It is the purpose of this Law to ensure that consumer goods offered for sale in the County of Albany are clearly, accurately and adequately marked as to their selling price.

Section 3. Definitions.

A. “Stock keeping unit” shall mean each group of items offered for sale of the same brand name, quantity of contents, retail price, and variety within the following categories:

1. food, including all material, solid, liquid or mixed, whether simple or compound, used or intended for consumption by human beings or domestic animals normally kept as household pets and all substances or ingredients to be added thereto any purpose; and,
2. napkins, facial tissues, toilet tissues, and any disposable wrapping or container for the storage, handling or serving of food; and
3. detergents, soaps, other cleansing agents, and cleaning

- implements; and
4. non-prescription drugs, feminine hygiene products and health and beauty aids.

B. “Stock keeping item” shall mean each individual item of a stock keeping unit offered for sale.

C. “Universal product coding” shall mean any system of coding which entails electronic pricing.

D. “Item Pricing” shall mean the tag, stamp or mark affixed to a stock keeping item by an authorized person which sets forth, in clearly readable numerals, the selling price.

E. “Computer-assisted checkout system” shall mean any electronic device, computer system or machine which determines the selling price of a stock keeping item by interpreting its universal product code, or its price look-up function.

F. “Price look-up function” shall mean the capability of any checkout system to determine the selling price of a stock keeping item by way of the manual entry into the system of a code number assigned to that particular unit by the retail store or by way of the checkout operator’s consultation of a file maintained at the point of sale.

G. “Inspector” shall mean the authorized government official and his agents or employees having jurisdiction to enforce the provisions of this **Local Law**.

H. “Retail Store” shall mean a store selling stock keeping units at retail. A store which is not open to the general public but is reserved for use by its members shall come within the provisions of this definition unless the members must pay a direct fee to the store to qualify for membership and the store is not required to collect sales tax on transactions with members. Pursuant to this section, a retail store shall not include any store which:

1. has as its only full-time employee the owner thereof, or the parent, or the spouse or child of the spouse or child of the owner, or in addition thereto, not more than two full-time employees; or
2. had annual gross sales in a previous calendar year of less than three million dollars, unless the retail store is part of a network of subsidiaries, affiliates or other member stores, under direct or indirect common control, which as a group, had annual gross sales in the previous calendar or three million dollars or more; or
3. engages primarily in the sale of food for consumption on the premises or in a specialty trade which the Director of Weights and Measures determines, by regulation, would be

inappropriate for item pricing.

Section 4. Item Pricing Required.

A. Every person, firm, partnership, corporation or association which sells, offers for sale or exposes for sale in a retail store, a stock keeping unit that bears a Universal Product Code shall disclose to the consumer the price of each stock, keeping item by individually marking each such item with the item price.

B. Certain items exempted. The following stock keeping items need not be item priced as provided in subdivision A of this section provided that a shelf price and a price look-up function are maintained for such stock keeping items:

1. Snack foods such as cakes, gum, candies, chips and nuts offered for sale in single packages and weighing five ounces or less;
2. Stock keeping items which are under three cubic inches in size, and weigh less than three ounces, and are priced under one dollar;
3. Items sold through a vending machine;
4. Fresh milk, cream, half and half and other similarly packaged liquid dairy products and orange juice;
5. Fresh eggs;
6. Unpackaged fresh produce;
7. Food offered for sale in bulk;
8. Items offered for sale which are packaged in poly-plastic frozen food bags;
9. All sale items merchandised in segregated off-shelf displays for a period of up to 21 days provided the name of the product and the advertised or sale price is clearly and conspicuously posted on a sign at the point of display;
10. Individual jars of strained and junior size baby food;
11. Individual boxes of dry gelatin and pudding;
12. Ice cream and frozen yogurt; and
13. Stock keeping items within a multi-package that is properly item priced.

Section 5. Pricing Accuracy.

A. No retail store shall charge a price for any exempt or non-exempt stock keeping which exceeds the lower of any item price, shelf price, sale price of such stock keeping item. In the event that the programmed computer, a stock keeping unit, the store will be subject to a penalty as described in **Section 6, Paragraph E.**

B. In a store with a laser scanning or other computer assisted checkout system, the Inspector shall be permitted to compare the item, shelf, sale or

advertised price of any stock keeping item sold in the programmed computer price.

Section 6. Enforcement.

A. **Item Pricing Inspection Procedures.** For the purpose of determining a store's compliance with the requirements of **Section 4**, an inspection shall be conducted of a sample of no less than ten stock keeping units. However, in the event the Inspector has received a specific written complaint, no such minimum sample shall be required in the investigation of same.

B. **Laser Scanner Accuracy Inspection Procedures.** For any inspection under **section 5**, the store representative shall afford the Inspector access to the test mode of the checkout system in use at that store or to a comparable function of said system and to the retail price information contained in a price look-up function. In the event the Inspector has received a specific written complaint, the Inspector, may, in his discretion, conduct an inspection of only those items.

C. **Stop Removal Order.** An Inspector shall have the authority to issue a stop removal order with respect to any device, system, or stock keeping unit being used, handled or offered for sale in violation of **Section 4 or 5**. Any such order shall be in writing and direct that the device, system or stock keeping unit, as the case may be, shall be removed from use or sale pending correction.

D. **Penalties for Item Pricing Violations.** Any retail store which fails to mark any stock keeping item in violation of **Section 4** shall be subject to the penalties of not less than **five dollars per violation**. For additional violations during a subsequent inspection in a twelve month period, the above penalties shall be doubled. In doubling penalties, an Inspector shall not be limited to the doubling of any specific fine previously issued. No penalties shall be imposed for a violation of **Section 4** if more than ninety-five percent of all the stock keeping items inspected in each stock keeping unit at an individual point of sale contain clearly readable and correct item prices.

E. **Penalties for Scanner Accuracy Violations.** Upon a violation of the provisions of **Section 5**, a penalty in the amount of fifty dollars per violation shall be imposed for the first two violations of the stock keeping items compared; one hundred dollars per violation of the next two violations; two hundred dollars per violation for the next two violations; and three hundred dollars for each additional violation. For additional violations during a subsequent inspection in a twelve month period, the above penalties shall be doubled.

Section 7. Jurisdiction.

The provision of this Local Law and any Regulation promulgated

hereunder shall be enforced by the Director of Weights and Measures for the County of Albany. The Director of Weights and Measures shall refer cases of unpaid penalties to the Albany County Attorney for appropriate legal action.

Section 8. Appointment of Review Committee.

Upon the expiration of the first six months of operation; the Chairman of the County Legislature shall appoint a three member Review Committee to study this Law's strengths and weaknesses and make appropriate recommendations for amendments to the Finance Committee.

Section 9. Severability.

If any section of this Local Law, or the application thereof to any person or circumstance shall be adjudged invalid by a Court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was **revision** of any section or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this Law are hereby declared to be **severable**.

Section 10. Effective Date

This law shall take effect July 1, 1992.

נספח מס' 10

חוק סימון מחירים של מחוז ארי, מדינת ניו יורק, ארה"ב

Erie County's Scanner Accuracy Law

COUNTY OF ERIE

LOCAL LAW NO. 7 - 1997

LOCAL LAW INTRO. NO. 9 - 1997

(PRINT #1)

A LOCAL LAW in relation to item pricing and scanner accuracy in retail establishments in Erie county.

BE IT ENACTED BY THE ERIE COUNTY LEGISLATURE AS FOLLOWS:

Section One. Legislative findings and intent. The Erie county legislature finds that there is a technology which utilizes computer-assisted pricing systems which offer the user numerous efficiencies and economies in the operation of the retail industries, the use of which may make it economically advantageous for retail stores to remove price markings on individual commodities. This legislature further finds that the absence of individual price markings may make it difficult for consumers to make a fully informed purchase choice or to detect overcharges when they occur at the registers. It is the intention of this legislature to require that all retail stores place individual item prices on products which they sell and to require accuracy at the checkout registers. Further, it is the intention of this legislature to provide for a waiver of the item pricing requirement for certain stores which maintain a very high degree of computer-assisted pricing accuracy and which provide certain other services to permit consumers to record and verify individual item prices. It is also the intention of this legislature to require clear and legible shelf labels. Finally it is the intention of this legislature to ensure that consumers in Erie county know what they are paying and are not charged more than that amount at the registers.

Section Two. Definitions. For the purpose of this local law the following terms shall have the following meanings:

- a. "Advertised price" shall mean the price of a SKI which a store has caused to be disseminated by means of promotional methods such as an in-store sign, newspaper, circular, television, or radio advertising;
- b. "Computer-assisted checkout system" shall mean any electronic device, computer system, or machine which determines the selling price of a SKI by interpreting the item's UPC, or any other use of a price look-up function;
- c. "Director" shall mean the director of the Erie county bureau of weights and measures;
- d. "Inspector" shall mean an authorized representative of the Erie county bureau of weights and measures;
- e. "Item price" shall mean the tag, stamp, or mark affixed by an authorized person to a SKI which sets forth, in arabic numerals, the retail price thereof;
- f. "Price look-up function" shall mean the capacity of any checkout system to determine the retail price of a SKI by way of the manual entry into the system of a code number assigned to that particular SKI by the store or the checkout operator's consultation of a file maintained at the point of sale;
- g. "Sale price" shall mean the price of SKIs offered for sale in good faith at a price below the price for which such SKIs are usually sold in the store;
- h. "Shelf price" shall mean the sign or tag placed by an authorized person at each point of display of a SKU, which clearly sets forth the retail price of the SKIs within that SKU;
- i. "Stock-keeping item" (SKI) shall mean each item within a SKU being offered or exposed for sale;
- j. "Stock-keeping unit" (SKU) shall mean each group of items offered for sale of the same brand name, quantity of contents, retail price, and variety within;
- k. "Store" shall mean any establishment which offers SKUs for sale at retail. Each separate building within which such SKUs are offered for sale at retail shall constitute a separate store;
- l. "Store-coded item" shall mean the application of an UPC to any SKI by that particular store;
- m. "Universal product code" (UPC) shall mean the digit figure depicted through the use of bars and spaces that may be scanned into pricing systems; and
- n. "Waiver" shall mean a waiver from item pricing issued pursuant to section 10 of this local law.

Section Three. Item pricing required. Every person, store, firm, partnership, corporation, or association which sells, offers for sale or exposes for sale at retail, SKUs, shall disclose to the consumer the item price of such SKUs, except as provided in sections four or ten of this local law, by causing to be conspicuously, clearly, and plainly marked, stamped, typed, or affixed thereto the retail price in Arabic numerals; except, however, that the provisions of this section shall not apply to a store that:

- a. has as its only full-time employees the owner or franchisee thereof, or the parent, spouse, or child of the owner or franchisee, or in addition thereto not more than two full-time employees; or

- b. engages primarily in the sale of food for consumption on the premises; or
- c. holds a current waiver as provided in section ten of this local law.

Section Four. Certain items exempted.

- a. The following SKIs need not be item priced as provided in section three of this local law provided that a shelf price is posted at the point of display, consistent with section thirteen of this local law, and a price look-up function is maintained for such SKIs:
 - i. SKIs within a multi-item package that are properly price marked;
 - ii. Milk, cream, half-and-half, and other similarly packaged liquid dairy products and juices;
 - iii. Eggs;
 - iv. Unpackaged bulk or fresh produce;
 - v. SKIs sold through a vending machine;
 - vi. Food sold for consumption on the premises;
 - vii. Snack foods, such as cakes, gum, candies, chips, and nuts offered for sale in single packages and weighing five ounces or less;
 - viii. Cigarettes, cigars, tobacco, and tobacco products;
 - ix. Frozen foods, gelatin, pudding and yogurt;
 - x. Baby food;
 - xi. SKIs which weigh three ounces or less and are priced under one dollar;
 - xii. Greeting cards, magazines, books, and periodicals;
 - xiii. Live plants; and
 - xiv. Lumber, fencing, and bulk electrical wire.
- b. SKIs which must be purchased with the assistance of a sales person need not be item priced as provided in section three of this local law, nor be shelf priced at the point of display. For purposes of this section, merely accepting payment for the merchandise does not constitute assistance.

Section Five. Item pricing inspections. For the purpose of determining a store's compliance with section three of this local law, an inspection shall be conducted of a sample of no fewer than fifty and no more than three hundred SKUs. The sample shall be selected by the inspector from a cross section of all SKUs offered for sale at the store inspected, exclusive of exempt SKUs.

Section Six. Item pricing violations and penalties.

- a. The failure to item price three or more SKIs of a particular SKU shall constitute a single violation. The failure to item price additional SKIs within the same SKU shall not constitute an additional violation. Each day a violation is continued shall constitute a separate violation.
- b. Any store found in violation of section three of this local law shall be subject to the following penalties: for violation discovered upon the first inspection following any twelve month period in which no violation of section three of this local law has been found, the store shall pay a penalty of fifty dollars for each of the first four violations, one hundred dollars for each of the next twelve violations, and one hundred fifty dollars for each subsequent violation, but in no case shall the total penalty exceed five thousand dollars. For violations discovered upon a second or subsequent inspection following a previous violation within a twelve month period, the above penalties shall be doubled, with a maximum total penalty of fifteen thousand dollars.

Section Seven. Price accuracy required. No store shall charge a retail price for any exempt or non-exempt SKI which exceeds the lowest of any item, shelf, sale, or advertised price of such SKIs.

Section Eight. Price accuracy inspections.

- c. For any price accuracy inspection under this local law, the store representative shall afford the inspector access to the test mode of the computer-assisted checkout system in use at the store or to a comparable function of said system and to the retail price information contained in a price look-up system.
- d. In a store with a laser scanning or other computer-assisted checkout system, the inspector shall be permitted to compare the item, shelf, sale, or advertised price of any SKIs offered in the store, not to exceed five hundred SKIs selected from a cross section of all SKUs offered for sale at the location at any one inspection, with the programmed computer price. The store shall provide such access to the computer as necessary for the inspector to make the determination.

Section Nine. Price violations and penalties.

- e. For any violation of section seven of this local law, there shall be a penalty of five hundred dollars. Each day on which a violation is continued shall constitute a separate violation.
- f. In the event that the programmed computer price exceeds the item, shelf, sale, or advertised price of any SKI, the store will be subject to the following penalties:

for violations of the provisions of section eight of this local law identified in the first inspection following any twelve month period in which no such violations have been found, a penalty in the amount of fifty dollars per violation shall be imposed for the first two percent of the SKIs compared rounded to the nearest whole number; one hundred dollars per violation for the next two percent; two hundred dollars per violation for the next two percent; and three hundred dollars per additional violation, but in no event shall the total penalty for all violations of section eight of this local law identified at such first inspection exceed two thousand dollars. For violations identified in a second of subsequent inspection in a twelve month period following a previous violation of section eight of this local law, the penalties shall be doubled, with a maximum total penalty of fifteen thousand dollars.

Section Ten. Waiver from item pricing.

- g. Every person, store, firm, partnership, corporation, or association which uses a computer-assisted checkout system and which would otherwise be required to item price as provided in section three of this local law may make application in writing to the director for a waiver of said item pricing requirement. A separate application shall be required for each store. Each application shall be subject to a non-refundable processing fee to cover the cost of conducting scanner accuracy inspections as provided in subsection b of this section. The director shall determine the processing fee and may revise it from time to time to reflect said costs, but in no case shall said fee exceed one thousand seven hundred fifty dollars per application.
- h. Waiver applications and the required fee must be received at the bureau of weights and measures on or before May 1, 1998 and on or before each May 1 thereafter. Stores which fail to comply will be subject to all the provisions contained within section three. New stores or establishments which did not previously hold waivers may apply after the May 1 deadline and the application fee and the length of waiver will be appropriately adjusted.
- i. Upon receipt of an application and fee as provided in subsection a of this section, the director shall cause to be conducted two scanner accuracy inspections of the store for which the application has been submitted. These inspections shall be conducted on two separate days, and in the manner prescribed in section eight of this local law, excepting, however, that a minimum of one hundred SKIs shall be checked at each inspection. In the event that any violations are detected, penalties shall be assessed as provided in section nine of this local law. If, considering both inspections together, the number of SKIs found to be in violation does not exceed two percent of all SKIs inspected, the director shall grant to the applicant a one year revocable waiver from the item pricing requirement. Any store with a current waiver shall be exempt from the requirements of section three of this local law.
- j. A waiver from item pricing shall be valid for a period of one year from the date of issuance. Stores may reapply annually for renewal of a waiver. A processing fee and two inspections shall be required for each annual renewal application, as required for an original waiver application.
- k. In the event that total violations in excess of two percent are discovered in the inspections provided for in subsections c or d of this section, the director shall not grant a waiver to the applicant. Such a store must promptly reapply for a waiver and pay the required fee to the director within five business days after being notified of the failure. Stores which do not reapply must be in compliance with all the requirements of section three within sixty days from the date of failure.
- l. In the event that the director is unable to conduct inspections pursuant to subsection c of this section within thirty days of receipt of a complete waiver application and proper processing fee, the director shall grant a temporary waiver, pending completion of the inspections. The director shall cause said inspections to be completed as soon as practicable. If, upon completion, the inspections detect a violation rate of two percent or less, the director shall issue a regular waiver with an expiration date one year from the commencement date of the temporary waiver. If the inspections detect a violation rate in excess of two percent, the temporary waiver shall be immediately revoked and the provisions of subsection c of this section shall apply.
- m. As a condition of the waiver from item pricing pursuant to this section, each store which accepts a waiver must agree to meet the following requirements, and no regular or temporary waiver shall be granted to a store which has not agreed to these requirements in writing:
 - i. The store shall designate and make available a price check scanner to enable consumers to confirm the price of a SKI. This price check scanner shall be in a location convenient to consumers with a sign of sufficient sized lettering identifying this unit to the consumers. Stores will submit their proposed sign and device location to the director for approval;
 - ii. The store shall not charge any customer a price for any SKI which exceeds the item, shelf, sale, or advertised price of that SKI, whichever is least;
 - iii. The store shall cause to be posted in conspicuous location(s), accessible by all consumers and approved by the director, sign(s) explaining the rights of consumers consistent with the waiver as set forth in section eleven of this local law. The director will specify the content, size and numbers of this sign(s) by regulation. The store is also required to post the temporary or annual waiver in the area designated for handling price discrepancies;
 - iv. The store shall make payment to consumers who have been overcharged as provided in section eleven of this local law. Each store is required to designate at least one individual who is authorized to issue these payments during all of the store's operating hours; and
 - v. The store shall correct all pricing errors identified by consumers at store level within three hours and, if applicable, at their firm, partnership, corporation, or association within twenty-four hours.

Section Eleven. Consumer's right to special payment if overcharged by a store granted a waiver from item pricing. Any person who suffers a loss because the price charged for a SKI, by a store which has been granted a waiver from item pricing pursuant to section ten of this local law, is greater than the least of the item, shelf, sale, or advertised price may seek special payment by notifying the store in person or in writing that the price charged is more than the item, sale, shelf, or advertised price. The notice shall include evidence of the loss suffered by the consumer. As soon as practical, and in any case within one hour after receipt of such notification and verification of the overcharge, the store shall tender to the consumer an amount equal to the difference between the price

charged and the least of the item, sale, shelf, or advertised price, plus an amount equal to ten times that difference, but not less than one dollar nor more than ten dollars. If the loss is suffered by one consumer within one transaction on two or more identical SKIs, the amount to be tendered by the store shall be the difference on each item, plus an amount equal to ten times the difference on a single item, but not less than one dollar nor more than ten dollars. If the store does not tender this amount within the time set forth in this local law, the consumer may request a hearing before the director. Within ten working days of receipt of such a request for a hearing, the director shall cause a hearing to be held, and shall rule as to what payment, if any, is due under this section.

- n. Every store which has been granted a waiver from item pricing pursuant to section ten of this local law shall maintain records of the number, dates, times and amounts of claims made by consumers pursuant to this section, and the disposition of each claim, and shall provide copies of such records to the director upon request. The director will specify by regulation forms for use by consumers in presenting claims for such payment.
- o. Every store which has been granted a waiver from item pricing pursuant to section ten of this local law shall make a good faith effort to resolve all legitimate complaints of overcharges by tendering payment consistent with the provisions of subsection a of this section. Failure to tender this payment and use of the specified form in section 11(a) may be grounds for the director to revoke that store location's waiver from item pricing.

Section Twelve. Revocation of waiver.

- p. The director may revoke a waiver from item pricing for any of the following reasons:
 - i. Failure to comply with any provision of sections ten, eleven or thirteen of this local law;
 - ii. Deliberate overcharging of any consumer; and
 - iii. Material misrepresentation in the application for a waiver.
- q. A store which has had its waiver revoked pursuant to this section may not reapply for a new waiver for a period of twelve months following the date of revocation. This store location must be in compliance with section three of this local law within sixty days from the date of the revocation notification.

Section Thirteen. Readable shelf labels required.

- r. Any store which has been granted a waiver from item pricing pursuant to section ten of this local law shall provide a clear and readable shelf label for every SKU.

Each SKI's retail price shall be printed on a shelf label in characters no less than three-quarters of an inch in height. Shelf price labels on bottom shelves shall be tilted upward at an angle of between thirty and sixty degrees from the floor.

- i. SKIs that are individually item priced are exempt from the requirements of section 13(a); and
 - ii. In cases where the width of the facings of a particular SKI is smaller than the width of the store's standard shelf label, the store may decrease the size requirement specified in section 13(a). In these situations the lettering cannot be reduced below three-eighths of an inch.
- s. The director may, by regulation, specify standard shape, typeface, placement, and format of shelf labels, and may set other requirements to ensure the readability of shelf labels and the ability of consumers to identify which shelf label applies to each SKU.
- t. No provision of this section shall be construed to diminish the requirements of section 214-h of the agriculture and markets law. If any provision of this section of this local law conflicts with section 214-h of the agriculture and markets law, the agriculture and markets law shall control.

Section Fourteen. Penalties for failure to provide proper shelf labeling. In the event that shelf labels do not conform with the provisions of section thirteen of this local law, the store will be subject to the following penalties: for violations of the provisions of section thirteen of this local law identified in the first inspection following any twelve month period within which no such violations have been found, a penalty in the amount of ten dollars per violation shall be imposed, but in no event shall the total penalty for all violations identified at such first inspection exceed five hundred dollars. For violations identified in a second or subsequent inspection in a twelve month period following a previous violation of section thirteen of this local law, the penalties shall be doubled, up to a maximum of two thousand dollars per inspection. Each SKU for which proper shelf labeling is not provided shall constitute a separate violation. Every day a violation is continued shall constitute a separate violation.

Section Fifteen. Enforcement by director.

- u. The director shall have the authority to promulgate such regulations as necessary to carry out the purposes of this local law. This local law and regulations promulgated by the director under this local law shall be enforced by the director.
- v. The director shall, within available appropriations, cause retail stores to be inspected to ensure compliance with this local law.
- w. Upon finding a violation of the provisions of this local law, or of the rules and regulations promulgated hereunder, the director shall cause the same to be corrected and, if requested, cause a hearing to be held to determine whether a violation of this local law has occurred. At least ten days written notice of a hearing shall be served either personally upon the person in charge of the store where the alleged violation occurred, or by certified or registered mail addressed to such store. Such notice shall contain a concise statement of the facts constituting the alleged violation and shall set forth the date, time, and place that a hearing shall be held. Upon a finding of a violation of the provisions of this local law, the director shall be authorized to recover any civil penalty provided for in this local law.

Section Sixteen. Appeals. Any decision of the director under this local law, including assessment of penalties, denial of an application for a waiver, or revocation of a waiver, may be appealed in writing to the Erie county commissioner of public works. Within thirty days of receipt of such an appeal the commissioner of public works shall cause a hearing to be held to review the contested decision of the director. At least ten days written notice of a hearing shall be served either personally upon the person in charge of the store filing the appeal, or by certified or registered mail addressed to such store. Such notice shall set forth the date, time, and place where a hearing shall be held. Within thirty days following such a hearing, the commissioner of public works shall issue a final written ruling regarding the appeal.

Section Seventeen. Separability. If any clause, sentence, paragraph or section of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or section thereof directly involved in the proceeding or action in which such adjudication has been rendered; except, however, that if section eleven of this local law is adjudged to be invalid then the entirety of section ten shall also be invalid, and all waivers granted under section ten shall be null and void.

Section Eighteen. Construction, repeal of prior legislation. local law number eight of 1993 is hereby repealed. This local law shall be deemed to supersede any and all prior enactments of the county of Erie with respect to the subject matter contained herein. Wherever any prior local law of the county of Erie is found to be inconsistent or in conflict with the provisions contained herein, such prior local law shall be deemed hereby amended. This local law shall be construed liberally so as to provide maximum protection to the consumers of Erie county.

Section Nineteen. Effective date. This local law shall be effective January 1, 1998, except for section three, which shall be effective March 1, 1998.

נספח מס' 11

חוק סימון מחירים של מחוז סופוק, מדינת ניו יורק, ארה"ב

LAWS OF SUFFOLK COUNTY, NEW YORK

V67 Updated 12-15-2004
PART IV REGULATORY LOCAL LAWS

Chapter 328, ITEM PRICING

HISTORY: Adopted by the Suffolk County Legislature 3-3-1992 as L.L. No. 4-1992.
Amendments noted where applicable

§ 328-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

COMMISSIONER -- The Commissioner of the County Department of Labor or the Director of the Division of Consumer Affairs.

COMPUTER-ASSISTED CHECKOUT SYSTEM -- Any electronic device, computer system or machine which determines the selling price of a stock-keeping item by interpreting its universal product code or by use of its price look-up function.

COUNTY -- The County of Suffolk.

DEPARTMENT -- The Suffolk County Department of Labor, Division of Consumer Affairs.

DIRECTOR -- The Director of the Office of the Citizens Affairs. [Added 3-9-1993 by L.L. No. 8-1993]

NOTE: Local Law No. 8-1993 also provided as follows:

Section 1. Legislative intent.

This Legislature hereby finds and determines that recent actions by this Legislature in adopting Local Law No. 15-1992, "A Charter Law Streamlining and Consolidating County Functions of Consumer Affairs in the Office of Citizen Affairs," resulted in a reorganization of the functions carried out by the County Department of Consumer Affairs by transferring the duties, powers and responsibilities of that Department to a newly created Office of Citizens Affairs within the County Executive's Office.

This Legislature also finds and determines that during an interim period when the functions of the Department of Consumer Affairs were transferred to a division within the Department of Labor, Local Law No. 4-1992, "A Local Law to Establish Item Pricing Within Suffolk County," was adopted and specifically delegated the powers, duties and responsibilities assigned therein to the Division of Consumer Affairs located in the Department of Labor.

This Legislature further finds that the transition provisions set forth in Local Law No. 15-1992 failed to provide for the assumption of duties delegated to the Division of Consumer Affairs, Department of Labor, by the Item Pricing Law to the newly created Office of Citizens Affairs.

Therefore, the purpose of this law is to amend those provisions of Local Law 4-1992 to conform to Local Law No. 15-1992.

Section 3. Applicability.

This law shall apply to any transactions consummated on or after the effective date of this law.

Section 5. Reverse preemption.

This law shall be null and void on the day that statewide or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Suffolk. The County Legislature may determine, via mere resolution, whether or not identical or substantially similar statewide or federal legislation has been enacted for the purposes of triggering the provisions of this section.

INSPECTOR -- The Director of Weights and Measures or his or her agent, duly

authorized to enforce the provisions of this chapter. [Amended 3-9-1993 by L.L. No. 8-1993 ^{EN}]

ITEM PRICE -- The tag, stamp or mark affixed to a stock-keeping item which sets forth, in Arabic numerals, the retail price.

OFFICE -- The Suffolk County Office of Citizen Affairs. [Added 3-9-1993 by L.L. No. 8-1993^{EN}]

PRICE LOOK-UP FUNCTION -- The capability of any checkout system to determine the retail price of a stock-keeping item by way of the manual entry into the system of a code number assigned to that particular unit by the retail store or by way of the checkout operator's consultation of a file maintained at the point of sale.

RETAIL STORE -- Any store, including stores whose primary sales product is merchandise of a general nature, selling stock-keeping units at retail. A store which is not open to the general public but is reserved for use by its members shall come within the provisions of this definition unless the members must pay a direct fee to the store to qualify for membership and the store is not required to collect sales tax on transactions with members. Pursuant to this section, a "retail store" shall not include any store which:

- A. Has as its only full-time employee the owner thereof or the parent, the spouse or the child of the owner or, in addition thereto, not more than two (2) full-time employees;
- B. Had annual gross sales in a previous calendar year of less than three million dollars (\$3,000,000.), unless the retail store is part of a network of subsidiaries, affiliates or other member stores, under direct or indirect common control, which, as a group, had annual gross sales in the previous calendar year of three million dollars (\$3,000,000.) or more; or
- C. Engages primarily in the sale of food or consumption on the premises or in a specialty trade which the Director determines, by regulation, would be inappropriate for item pricing. [Amended 3-9-1993 by L.L. No. 8-1993^{EN}]

SALE ITEM or WEEKEND SPECIAL -- Stock-keeping item offered for sale for a period of seven (7) days or less in a retail store at a price below the price that the item is usually sold for in such store. The Director may authorize, by regulation, a fourteen-day sale period for holidays such as Thanksgiving, Christmas, Passover and Easter. [Amended 3-9-1993 by L.L. No. 8-1993 ^{EN}]

STOCK-KEEPING ITEM -- Each item of a stock-keeping unit offered for sale.

STOCK-KEEPING UNIT -- Each group of items offered for sale of the same brand name, quantity of contents, retail price and variety within the following categories:

- A. Food, including all material, solid, liquid or mixed, whether simple or compound, used or intended for consumption by human beings or domestic animals

normally kept as household pets, and all substances or ingredients to be added thereto for any purpose.

- B. Napkins, facial tissue, toilet tissues and any disposable wrapping or container for the storage, handling or serving of food.
- C. Detergents, soaps, cleaning agents and cleaning implements.
- D. Nonprescription drugs, feminine hygiene products and health and beauty aids.

UNIVERSAL PRODUCT CODE -- Any system of coding which entails electronic pricing.

§ 328-2. Item pricing required.

Notwithstanding the provision of any local law or regulation to the contrary, every person who sells, offers for sale or exposes for sale in a retail store, located within the County of Suffolk, a stock-keeping unit that bears a universal product code shall disclose to the consumer the item price of each stock-keeping item as defined in § 328-1 of this chapter.

§ 328-3. Exemptions.

A. The following stock-keeping items need not be item priced as provided in § 328-2 herein, provided that a shelf price adjacent to the display is maintained for such stock-keeping items:

- (1) Stock-keeping items which are under three (3) cubic inches in size and weigh less than three (3) ounces and are priced under fifty cents (\$0.50).
- (2) Items sold through a vending machine.
- (3) Milk.
- (4) Eggs.
- (5) Loose fresh produce.
- (6) Stock-keeping items which are offered for sale in single packages and weigh three (3) ounces or less.
- (7) Stock-keeping items offered as a sale item or weekend special.
- (8) Strained and junior-sized baby foods packaged in jars.
- (9) Single cans or bottles of soda where the selling price for different flavors

packaged in identical sizes or quantities is the same.

- (10) Stock-keeping items which are displayed for sale in bulk which are either packaged for or by the consumer.
- (11) Snack foods such as cakes, gums, candies, chips and nuts offered for sale.
- (12) Food sold for consumption on premises.
- (13) Frozen juice and ice cream.
- (14) Frozen food products sold for storage in the freezer in polyethylene bags.

B. The provisions of this section may be subsequently modified or amended by order of the Director either by adding or deleting stock-keeping units from the list of exemptions or by further directing the manner in which the selling price of exempted stock-keeping units shall be posted. [Amended 3-9-1993 by L.L. No. 8-1993 ^{EN}]

§ 328-4. Pricing accuracy.

A. No retail store shall charge a retail price for any exempt or nonexempt stock-keeping item which exceeds the lower of any item, shelf, sale or advertised price of such stock-keeping item. In the event that the price exceeds the lowest price a store is permitted to charge for a stock-keeping unit, the store shall be subject to a penalty as set forth in § 328-5 of this chapter.

B. In a store with a laser-scanning or other computer-assisted checkout system, the Inspector shall be permitted to compare the item, shelf, sale or advertised price of any one (1) stock-keeping item within a stock-keeping unit sold in the store with the programmed computer price.

§ 328-5. Enforcement. [Amended 3-9-1993 by L.L. No. 8-1993 ^{EN}]

A. The provisions of this chapter shall be enforced by the Office. Upon presentation of appropriate credentials, a representative of the Office or the Inspector shall have the right to enter upon the premises of any retail store to make an inspection and to determine compliance with the provisions of this chapter.

B. Upon presentation of the appropriate credentials, a representative of the Office or an Inspector may compare the item, shelf or sale advertised price with the programmed computer price of stock-keeping items.

§ 328-6. Inspection procedures.

- A. For the purposes of determining a store's compliance with the requirements of § 328-2 of this chapter, an inspection shall be conducted of a sample of no fewer than twenty-five (25) stock-keeping units.
- B. For the purposes of determining a violation of § 328-2 of this chapter, no item shall be cited more than once in a forty-eight-hour period.
- C. With respect to the item price of any exempt item, the Director, in his or her discretion, may direct a retail store to post a sign in a conspicuous and unobstructed location in the manner and form prescribed by the Director. [Amended 3-9-1993 by L.L. No. 8-1993^{EN}]

§ 328-7. Laser scanner accuracy inspection procedure.

For any inspection pursuant to § 328-4 of this chapter, the store representative shall afford the Inspector access to the test mode of the checkout system in use at that store or to a comparable function of said system and to the retail price information contained in a price look-up function.

§ 328-8. Stop-removal order.

- A. The Inspector shall have the authority to issue a stop-removal order with respect to any stock-keeping unit being used, handled or offered for sale in violation of §§ 328-2, 328-3 and 328-4 of this chapter.
- B. Any such order shall be in writing and shall direct that the stock-keeping item be removed from sale pending correction.
- C. A violation pursuant to § 328-2 of this chapter shall be deemed to exist any time three (3) or more items within a stock-keeping unit are found to be not properly item priced.
- D. If a stock-keeping unit consists of fewer than three (3) items, failure to item price one (1) or more items shall constitute a violation.

§ 328-9. Penalties for offenses.

- A. Any person who fails to comply with the provisions of this chapter or any regulation or order promulgated hereunder, with the exception of § 328-6C, shall be subject to civil penalties of not more than fifty dollars (\$50.) per violation, not to exceed one thousand dollars (\$1,000.) per inspection.
- B. A person who fails to comply with the provisions of § 328-6C shall be subject to a civil penalty of not more than one hundred fifty dollars (\$150.) per violation, not to exceed one thousand dollars (\$1,000.) per inspection.

- C. Such civil penalties may be recovered after a hearing on written notice.
- D. For any additional violations during a subsequent inspection in a twelve-month period, the above civil penalties shall be doubled.

§ 328-10. Settlement or compromise.

- A. In lieu of instituting or continuing a hearing to recover a civil penalty or penalties, the Director may release, settle or compromise any alleged violation by accepting written assurance of discontinuance of any act or practice in violation of this chapter. [Amended 3-9-1993 by L.L. No. 8-1993 ^{EN}]
- B. An assurance entered into pursuant to this chapter shall not be deemed an admission of a violation unless it does so by its terms.
- C. Violation of an assurance entered into pursuant to this chapter shall be treated as a violation and shall be subject to all the penalties provided therefor.

§ 328-11. Hearing.

- A. A hearing held on any alleged violation or violations of the provisions of this chapter shall be scheduled on a date not less than five (5) business days after notification, in writing, to the person involved, of such hearing. The hearing shall be conducted by an officer or employee designated by the Director for such purpose. The person conducting the hearing shall make a written determination. Such determination may be appealed to the Director who, after due deliberation, shall issue an order accepting, modifying or rejecting such determination. [Amended 3-9-1993 by L.L. No. 8-1993^{EN}]
- B. Notice shall be served upon such person, either personally or by certified mail, and shall contain a concise statement of the facts constituting the alleged violation or violations, as well as setting forth the date, time and place the hearing will be held.
- C. At the hearing conducted by the officer or employee designated by the Director, the Office shall be authorized to recover any penalty imposed as the result of a finding of a violation of the provisions of this chapter. [Amended 3-9-1993 by L.L. No. 8-1993^{EN}]
- D. The person against whom the charges are pending has the right to be heard in his or her defense and to be represented by counsel or have counsel appear on his or her behalf, and such person or the attorney for such person shall have the right to call witnesses and produce evidence on behalf of such person.
- E. For the purpose of this chapter, the Director, or any officer or employee designated by him or her, may administer oaths, take testimony, subpoena witnesses

and compel the production of books, papers, records and documents pertinent to the subject of the investigation, pursuant to § C31-2B and C of the Suffolk County Charter. [Amended 3-9-1993 by L.L. No. 8-1993^{EN}]

§ 328-12. Rules and regulations.

A. The Director shall issue, promulgate and adopt such rules and regulations as he or she shall deem necessary and sufficient to carry out and implement the purpose of this chapter. [Amended 3-9-1993 by L.L. No. 8-1993^{EN}]

B. At least seven (7) days' prior notice of such public hearing shall be published in the official newspapers of Suffolk County. A copy of the regulations actually adopted hereunder and any amendments thereto shall be filed in the office of the Clerk of the County Legislature.

NOTE: Local Law No. 4-1992, which added this chapter, also provided as follows:

Section 1. Legislative intent.

This Legislature hereby finds and determines that clear and accurate item pricing is a basic consumer right that is not protected under current state law.

This Legislature also determines that consumer goods offered for sale in the County of Suffolk should be clearly, accurately and adequately marked as to selling price.

This Legislature also determines that, although statewide item-pricing legislation represents the most effective and most desirable way to address this issue over the long term, an interim countywide item-pricing measure may be necessary to protect county consumers until the state acts.

Therefore, the purpose of this law is to require item pricing on a countywide basis to protect the interests of Suffolk County consumers and to promote useful technology by permitting continued testing and development of the universal product code checkout system without the removal of item prices until such time as a statewide item - pricing statute is enacted.

Section 3. Applicability.

This law shall apply to any transactions consummated on or after the effective date of this law.

Section 5. Reverse preemption.

This law shall be null and void on the day that statewide or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Suffolk. The County Legislature may determine, via mere resolution, whether or not identical or substantially similar statewide or federal legislation has been enacted for the purposes of triggering the provisions of this section.

Chapter 329, ^{EN}ITEM PRICING DISPLAY, RETAIL

[HISTORY: Adopted by the Suffolk County Legislature 5-21-2002 by L.L. No. 13-2002.

Section 3.

Applicability.

This law shall apply to all sales occurring on or after the first day of the twelfth month immediately subsequent to the effective date of this law.^{EN} Amendments noted where applicable.]

§ 329-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

COMPUTER-ASSISTED CHECKOUT SYSTEM -- Any electronic device, computer system or machine which determines the selling price of merchandise by interpreting its universal product code or by use of its price look-up function.

COUNTY -- The County of Suffolk.

DIRECTOR -- The Director of the Suffolk County Office of Consumer Affairs.

INSPECTOR -- The Director of Weights and Measures or his or her agent, duly authorized to enforce the provisions of this chapter.

OFFICE -- The Suffolk County Office of Consumer Affairs.

PRICE LOOK-UP FUNCTION -- The capability of any checkout system to determine the retail price of any item by way of the manual entry into the system of a code number assigned to that particular unit by the retail store or by way of the checkout operator's consultation of a file maintained at the point of sale.

RETAIL STORE -- Any store, including stores whose primary sales product is merchandise of a general nature, sold at retail. A store which is not open to the general public but is reserved for use by its members shall come within the provisions of this definition unless the members must pay a direct fee to the store to qualify for membership and the store is not required to collect sales tax on transactions with members. Pursuant to this section, a "retail store" shall not include any store which:

- A. Has as its only full-time employee the owner thereof or the parent, the spouse or the child of the owner or, in addition thereto, not more than two full-time employees;
- B. Had annual gross sales in a previous calendar year of less than \$1,000,000, unless the retail store is part of a network of subsidiaries, affiliates or other member stores, under direct or indirect common control, which, as a group, had annual gross sales in the previous calendar year of \$1,000,000 or more; or
- C. Engages primarily in the sale of food for consumption on the premises or in a specialty trade which the Director determines, by regulation, would be inappropriate for scanner pricing accuracy.

§ 329-2. Pricing accuracy.

- A. In any retail store located within the County of Suffolk with a laser-scanning or other computer-assisted checkout system or device, the price charged for an item shall be displayed on the automated device so that the price may be accurately read by the purchaser of the item from a reasonable customer position.
- B. Any register, machine or any other device used by a retail store for the purpose of itemizing or totaling consumer sales shall display, on at least one side of said register, machine or device visible to the consumer, the cost of each item

purchased plus the tax and total cost of all items purchased.

§ 329-3. Penalties for offenses.

- A. Any person who fails to comply with the provisions of § 329-2 of this chapter shall be subject to a civil penalty of not more than \$150 per violation, not to exceed \$1,000 per inspection.
- B. Such civil penalties may be recovered after a hearing on written notice.
- C. For any additional violations during a subsequent inspection in a twelve-month period, the above civil penalties shall be doubled.

§ 329-4. Settlement or compromise.

- A. In lieu of instituting or continuing a hearing to recover a civil penalty or penalties, the Director may release, settle or compromise any alleged violation by accepting written assurance of discontinuance of any act or practice in violation of this chapter.
- B. An assurance entered into pursuant to this chapter shall not be deemed an admission of a violation unless it does so by its terms.
- C. Violation of an assurance entered into pursuant to this chapter shall be treated as a violation and shall be subject to all the penalties provided therefor.

§ 329-5. Hearing.

- A. A hearing held on any alleged violation or violations of the provisions of this chapter shall be scheduled on a date not less than five business days after notification, in writing, to the person involved, of such hearing. The hearing shall be conducted by an officer or employee designated by the Director for such purpose. The person conducting the hearing shall make a written determination. Such determination may be appealed to the Director who, after due deliberation, shall issue an order accepting, modifying or rejecting such determination.
- B. Notice shall be served upon such person, either personally or by certified mail, and shall contain a concise statement of the facts constituting the alleged violation or violations, as well as setting forth the date, time and place the hearing will be held.
- C. At the hearing conducted by the officer or employee designated by the Director, the Office shall be authorized to recover any penalty imposed as the result of a finding of a violation of the provisions of this chapter.
- D. The person against whom the charges are pending has the right to be heard

in his or her defense and to be represented by counsel or have counsel appear on his or her behalf, and such person or the attorney for such person shall have the right to call witnesses and produce evidence on behalf of such person.

E. For the purpose of this chapter, the Director, or any officer or employee designated by him or her, may administer oaths, take testimony, subpoena witnesses and compel the production of books, papers, records and documents pertinent to the subject of the investigation, pursuant to § C31-2B of the Suffolk County Charter.

§ 329-6. Rules and regulations.

A. The Director shall issue, promulgate and adopt such rules and regulations as he or she shall deem necessary and sufficient to carry out and implement the purpose of this chapter.

B. At least seven days' prior notice of such public hearing shall be published in the official newspapers of Suffolk County. A copy of the regulations actually adopted hereunder and any amendments thereto shall be filed in the office of the Clerk of the County Legislature.

Intro. Res. No. 1026-2004
1/2/2004

Laid on Table

Introduced by Legislator Alden

**RESOLUTION NO. -2004, ADOPTING
LOCAL LAW NO. - 2004, A LOCAL LAW TO
ESTABLISH ITEM PRICING INSPECTION
WAIVER SCHEDULE WITHIN SUFFOLK COUNTY
BASED ON PRICE ACCURACY**

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on ,2004 a proposed local law entitled, "**A LOCAL LAW TO ESTABLISH ITEM PRICING INSPECTION WAIVER SCHEDULE WITHIN SUFFOLK COUNTY BASED ON PRICE ACCURACY**," and said local law in final form is the same as when presented and introduced; now, therefore, be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2004, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO ESTABLISH ITEM PRICING
INSPECTION WAIVER SCHEDULE WITHIN SUFFOLK
COUNTY BASED ON PRICE ACCURACY**

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that clear and accurate item pricing has been codified as a basic consumer right in Suffolk County since 1992, ensuring clear, accurate, and adequately marked selling prices for consumer goods offered for sale by retailers within the County of Suffolk since that time.

This Legislature also determines that significant revenues can be generated by offering retailers the option of securing annual waivers from item pricing inspections based on price accuracy.

Therefore, the purpose of this law is to provide a fee-based waiver provision to induce voluntary compliance.

Section 2. Amendments.

I.) Chapter 328 of the SUFFOLK COUNTY CODE is hereby amended to read follows:

**Chapter 328
ITEM PRICING**

* * * * *

§ 328-4. Pricing accuracy.

- A.) No retail store shall charge a retail price for any exempt or nonexempt stock-keeping item which exceeds the lower of any item, shelf, sale or advertised price of such stock-keeping item. In the event that the price exceeds the lowest price a store is permitted to charge for a stock-keeping unit, the store shall be subject to a penalty as set forth in §328-9 of this chapter.
- B.) In a store with a laser-scanning or other computer-assisted checkout system, the Inspector shall be permitted to compare the

item, shelf, sale or advertised price of any one (1) stock-keeping item within a stock-keeping unit sold in the store with the programmed computer price.

§ 328-5. Enforcement.

- A.) The provisions of this chapter shall be enforced by the Office. Upon presentation of appropriate credentials, a representative of the Office or the Inspector shall have the right to enter upon the premises of any retail store to make an inspection and to determine compliance with the provisions of this chapter.
- B.) B.) Upon presentation of the appropriate credentials, a representative of the Office or an Inspector may compare the item, shelf or sale advertised price with the programmed computer price of stock-keeping items.

§ 328-6. Inspection procedures.

- A.) For the purposes of determining a store's compliance with the requirements of § 328-2 of this chapter, an inspection shall be conducted of a sample of no fewer than twenty-five (25) stock-keeping units.
- B.) For the purposes of determining a violation of § 328-2 of this chapter, no item shall be cited more than once in a forty-eight-hour period.
- C.) With respect to the item price of any exempt item, the Director, in his or her discretion, may direct a retail store to post a sign in a conspicuous and unobstructed location in the manner and form prescribed by the Director.

§ 328-7. Laser scanner accuracy inspection procedure.

- A.) For any inspection pursuant to § 328-4 of this chapter, the store representative shall afford the Inspector access to the test mode of the checkout system in use at that store or to a comparable function of said system and to the retail price information contained in a price look-up function.
- B.) Every person, store, firm, partnership, corporation, or association which uses a computer-assisted checkout system, and which would otherwise be required to item price as provided in Section 328-2 of this Chapter, may make an application in writing to the Director for a waiver of said item pricing requirements. A separate application shall be required for each separate retail store. Each application shall be subject to an annual non-refundable waiver fee based upon the gross square footage of each store as set according to the following schedule:

<u>Gross Store Size</u>	<u>Annual Waiver Fee</u>
<u>Under 3,000 Sq. Ft.</u>	<u>\$500.00</u>
<u>Between 3,001 and 10,000 Sq. Ft.</u>	<u>\$1,000.00</u>
<u>Between 10,001 and 30,000 Sq. Ft.</u>	<u>\$3,000.00</u>
<u>Over 30,000 Sq. Ft.</u>	<u>\$5,000.00</u>

- 1.) 1.) Upon receipt of an application and fee as provided in subsection (1) of this paragraph, the Director shall cause to be conducted two scanner accuracy inspections of the store for which the application has been submitted. These inspections shall be conducted on two (2) separate days, and in the manner prescribed by the Director. A minimum of twenty five (25) stock keeping

units shall be checked at each inspection for stores with less than 3,000 sq. ft; a minimum of fifty (50) stock keeping units shall be checked at each inspection for stores with between 3,001 and 10,000 sq. ft; and a minimum of one hundred (100) stock keeping units shall be checked at each inspection for stores with over 10,000 sq. ft. If, considering both inspections together, the number of stock keeping units found to be in violation does not exceed two percent (2%) of all those stock keeping units inspected, the Director shall grant to the applicant a one (1) year revocable waiver from the item pricing requirement. Any store with a current waiver shall be exempt from the requirements of Section 328-2 of this code.

2.) 2.) A waiver from item pricing shall be valid for a period of one (1) year from the date of issuance. Stores must reapply annually for renewal of waiver at the rates established in subsection (1) of this section. The waiver fee and two (2) inspections shall be required for each annual renewal application, as required for an original waiver application.

3.) 3.) In the event that total violations in excess of two percent (2%) are discovered in the inspections provided for herein, the Director shall not grant a waiver to the applicant. Such a store may reapply for a waiver and pay an additional waiver fee equal to one-half of the initial waiver fee to the Director within sixty (60) business days after being notified of the failure. Stores which do not reapply must be in compliance with all the requirements of this Chapter within sixty (60) days from the date of failure.

4.) 4.) In the event that the Director is unable to conduct inspections pursuant to subsection (3) of this paragraph within ninety (90) days after receipt of a complete waiver application and proper waiver fee, the Director shall grant a temporary waiver pending completion of the inspections. The Director shall cause said inspections to be completed as soon as practicable. If, upon completion, the inspections detect a violation rate of less than two percent (2%), the Director shall issue a regular waiver with an expiration date one year from the date of the temporary waiver. If the inspectors detect a violation rate in excess of two percent (2%), the temporary waiver shall be immediately revoked and the provisions of subsection (4) of this paragraph shall apply. Applicants holding a waiver issued during the prior year who apply for a renewal waiver shall be deemed to hold a temporary waiver pending completion of the new inspections.

5.) 5.) As a condition of the waiver from item pricing pursuant to this paragraph, each store which accepts a waiver shall agree to meet the following requirements, and no regular or temporary waiver shall be granted to a store which has not agreed to these requirements in writing:

a.) a.) The store shall designate and make available price check scanners to enable consumers to confirm the price of the stock keeping item. These price check scanners shall be in locations convenient to consumers with signs and sufficient sized lettering identifying the units to consumers. Retail stores shall submit their proposed sign and device locations to the Director for approval:

b.) b.) The store shall not charge any customer a price for any stock keeping item which exceeds the item, shelf, sale, or advertised price, whichever is less; and

- c.) c.) The store shall make prompt payment to consumers who have been overcharged and shall correct all verified pricing errors identified by consumers.
- 6.) 6.) The Director may revoke a waiver from item pricing for any of the following reasons:
 - a.) a.) Failure to comply with any provisions of this Chapter;
 - b.) b.) Deliberate overcharging of any consumer; and
 - c.) c.) Material misrepresentation in the application for a waiver.

* * * * *

§ 328-9. Penalties for offenses.

- A.) Any person who fails to comply with the provisions of this chapter or any regulation or order promulgated hereunder, with the exception of § 328-6C, shall be subject to civil penalties of not more than fifty dollars (\$50.) per violation, [not to exceed one thousand dollars (\$1,000) per inspection] for the first five (5) violations; not more than one hundred fifty dollars (\$150.00) for the sixth (6th) through tenth (10th) violations; not more than two hundred dollars (\$200.00) for the eleventh (11th) through fifteenth (15th) violations; and not more than three hundred dollars (\$300.00) per violation for any violations in excess of fifteen (15) violations.
- B.) B.) A person who fails to comply with the provisions of § 328-6C shall be subject to a civil penalty of not more than one hundred fifty dollars (\$150.) per violation, not to exceed one thousand dollars (\$1,000) per inspection.
- C.) Such civil penalties may be recovered after a hearing on written notice.
- D.) For any additional violations during a subsequent inspection in a twelve-month period, the above civil penalties should be doubled.

Section 3. Applicability.

- This law shall apply to any transactions consummated on or after the effective date of this law.

Section 4. Severability.

- If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

- This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and (27) of Title 6 of the NEW YORK CODE

OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

- This law shall take effect immediately upon filing in the Office of the Secretary of State.

[] Brackets denote deletion of existing language.

____ Underlining denotes addition of new language.

DATED:

APPROVED BY:

County Executive of the County of Suffolk

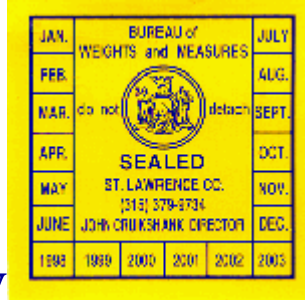
Date of Approval:

נספח מס' 12

חוק סימון מחירים של מחוז סנט לורנס, מדינת ניו יורק, ארה"ב



St. Lawrence



County

Weights and Measures Item Pricing Law

NOTICE OF ADOPTED LOCAL LAW

WHEREAS, Section 214 of County Law of the State of New York requires official publication of Local Laws,

I HEREBY CERTIFY that the following is a true copy of Local Law No. 6 for the year 1998 adopted by the St. Lawrence County Legislature on September 7, 1998.

Donna M. Reed, Deputy Clerk - St. Lawrence County Legislature

RESOLUTION NO. 269-98

LOCAL LAW NO. 6 FOR THE YEAR 1998 AMENDING ST. LAWRENCE COUNTY ITEM PRICING LAW BY INCLUDING A WAIVER FOR COMPUTER ASSISTED PRICING ACCURACY

Be it enacted by the Board of Legislators of the County of St. Lawrence as follows:

***Section One:* LEGISLATIVE INTENT**

This law recognizes that clear, accurate item pricing is a basic consumer right that is not protected under current state law. It is the intent of this legislation to ensure that consumer goods offered for sale in St. Lawrence County are clearly, accurately and

adequately marked as to their selling prices. Further, it is the intention of this legislature to provide for a waiver of the item pricing requirement for certain stores which maintain a very high degree of computer assisted pricing accuracy and which provide certain other services to permit consumers to record and verify individually priced items. It is also the intention of the legislature to require clear and legible shelf labels.

Section Two: **DEFINITIONS**

A. "Stock keeping unit" shall mean each group of items offered for sale of the same brand name, quantity of contents, retail price, and variety within the following categories:

- i) food, including all material, solid, liquid or mixed, whether simple or compound, used or intended for consumption by human beings or domestic animals normally kept as household pets and all substances or ingredients to be added thereto for any purpose; and
- ii) napkins, facial tissues, toilet tissues, and any disposable wrapping or container for the storage, handling or serving of food; and
- iii) detergents, soaps, other cleansing agents, and cleaning implements; and
- iv) non-prescription drugs, feminine hygiene products and health aids.

B. "Stock keeping item" shall mean each item of a stock keeping unit offered for sale.

C. "Universal product coding" shall mean any system of coding which entails electronic pricing.

D. "Item price" shall mean the tag, stamp or mark affixed to a stock keeping item by an authorized person which sets forth, in Arabic numerals, the retail price.

E. "Computer-assisted checkout system" shall mean any electronic device, computer system or machine which determines the selling price of a stock keeping item by interpreting its universal product code, or by use of its price look-up function.

F. "Price look-up function" shall mean the capability of any checkout system to determine the retail price of a stock keeping item by way of the manual entry into the system of a code number assigned to that particular unit by the retail store or by way of the checkout operator's consultation of a file maintained at the point of sale.

G. "Inspector" shall mean an authorized government official having jurisdiction to enforce the provisions of this section.

H. "Retail store" shall mean a store selling stock keeping units at retail. A store which is not open to the general public but is reserved for use by its members shall come within the provisions of this definition unless the members must pay a direct fee to the store to qualify for membership and the store is not required to collect sales tax on

transactions with members. Pursuant to this section, a retail store shall not include any store which:

- i) has as its only full-time employee the owner thereof, or the parent, or the spouse or child of the owner, or in addition thereto, not more than two full-time employees; or
- ii) had annual gross sales in a previous calendar year of less than three million dollars, unless the retail store is part of a network of subsidiaries, affiliates or other member stores, under direct or indirect common control, which, as a group, had annual gross sales in the previous calendar year of three million dollars or more; or
- iii) engages primarily in the sale of food for consumption on the premises or in a specialty trade which the Director of the St. Lawrence County Department of Weights and Measures determines, by regulation, would be inappropriate for item pricing.

I. "Pricing accuracy inspection" shall mean an inspection of a retail store for purposes of determining that programmed computer prices are consistent with the retail price or item, shelf, sale or advertised price. A pricing accuracy inspection shall consist of not less than one-hundred nor more than two-hundred stock keeping units, representing a cross section of all stock keeping units offered for sale.

J. "Shelf price" shall mean the tag or sign placed by an authorized person at each point of display of a stock keeping unit, which clearly sets forth the retail price of the stock keeping items within the unit.

K. "Retail price" shall mean the lowest price of a stock keeping item as determined by item, shelf, sale or advertised price of such stock keeping item.

L. "Sale price" shall mean the price of stock keeping items offered for sale in good faith at a price below the price for which such stock keeping items are usually sold in the store.

M. "Waiver" shall mean a waiver from item pricing, issued by the Director of the St. Lawrence County Department of Weights and Measures pursuant to Section 7 of this local law.

Section Three: ITEM PRICING REQUIRED

A. Every person, firm, partnership, corporation or association which sells, offers for sale or exposes for sale in a retail store a stock keeping unit that bears a Universal Product Code shall disclose to the consumer the item price of each stock keeping item.

B. Certain items exempted. The following stock keeping items need not be item priced as provided in subdivision A of this section provided that a shelf price and a price look-up function are maintained for such stock keeping items;

- i) snack foods such as cakes, gum, candies, chips and nuts offered for sale in single packages and weighing five ounces or less, and cigarettes and tobacco, frozen foods, and publicly advertised items on sale for no longer than seven days.
- ii) stock keeping items which are under three cubic inches in size, and weigh less than three ounces, and are priced under one dollar.
- iii) items sold through a vending machine.
- iv) cardboard boxes of gelatin, pudding and pie filling (6 oz. maximum weight), glass jars of baby food (6 oz. maximum weight), white milk and eggs, canned cat food and tuna fish (6 oz. maximum weight).

*Section Four: **PRICING ACCURACY***

A. No retail store shall charge a retail price for any exempt or non-exempt stock keeping item which exceeds the lower of any item, shelf, sale or advertised price of such stock keeping item. In the event that the programmed computer price exceeds the lowest price a store is permitted to charge for a stock keeping unit, the store will be subject to a penalty as described in Section Five (E).

B. In a store with a laser scanning or other computer assisted checkout system, the enforcing agent shall be permitted to compare the item, shelf, sale or advertised price of any one stock keeping item sold in the store with the programmed computer price.

*Section Five: **ENFORCEMENT***

A. Item pricing inspection procedures. For the purposes of determining a store's compliance with the requirements of section three, when an inspection is made it shall be conducted of a sample of no less than fifty stock keeping units.

B. Laser scanner accuracy inspection procedures. For any inspection under section four, the store representative shall afford the inspector access to the test mode of the checkout system in use at that store or to a comparable function of said system and to the retail price information contained in a price look-up function.

C. Stop removal order. An inspector shall have the authority to issue a stop removal order with respect to any device, system, or stock keeping unit being used, handled or offered for sale in violation of section three or four. Any such order shall be in writing and direct that the device, system or stock keeping item, as the case may be, shall be removed from use or sale pending correction.

D. Penalties for item pricing violations. Any person who fails to mark any stock keeping item in violation of section three shall be subject to the penalties of not less than twenty dollars and not more than fifty dollars per violation. For additional violations during a subsequent inspection in a twelve month period, the above penalties shall be doubled. No penalties shall be imposed for a violation of section

three if more than ninety-five percent of all the stock keeping items inspected in each stock keeping unit at an individual point of sale contain clearly readable item prices.

E. Penalties for scanner accuracy violations. For a violation of the provisions of section four, a penalty in the amount of fifty dollars per violation shall be imposed for the first two percent of the stock keeping items compared rounded to the nearest whole number; one hundred dollars per violation for the next two percent; two hundred dollars per violation for the next two percent; and three hundred dollars for each additional violation. For additional violations during a subsequent inspection in a twelve month period, the above penalties shall be doubled.

F. Jurisdiction. The provisions of this section and the regulations promulgated hereunder shall be enforced by the Director of the St. Lawrence County Department of Weights and Measures.

G. This law is to replace and amend Local Law No. 1 for the year 1997.

H. This local law shall take effect sixty days from the date of its adoption by the St. Lawrence County Legislature.

Section Six: **DEFERRING TO STATE LEGISLATION**

If the New York State Legislature enacts an item pricing law it shall supersede this legislation in all respects and this legislation shall be null and void when the state legislation takes effect.

Section Seven: **WAIVER OF THE ITEM PRICING REQUIREMENT FOR CERTAIN STORES WHICH MAINTAIN A VERY HIGH DEGREE OF COMPUTER ASSISTED PRICING ACCURACY**

A. In retail stores equipped with a "computer assisted checkout system", the St. Lawrence County Department of Weights and Measures shall have the authority to conduct pricing accuracy inspections. Retail stores, with "computer assisted checkout systems", who do not place price stickers on individual stock keeping units, shall be required to:

1. Display easy to read and properly located shelf tags or signs on every stockkeeping unit or group of stock keeping units of the same brand, size and price. A retail store failing to comply with this section shall be subject to a penalty in the sum of not more than three hundred dollars for the first violation, nor more than six hundred dollars for the second and each subsequent violation.

2. Achieve and maintain a pricing accuracy level of ninety-eight percent from an inspection of not less than one hundred nor more than two hundred stock keeping units, which shall represent a cross section of all stock keeping units offered for sale to ascertain that the retail price is the same as the computer assisted checkout price.

3. Designate and make available a price check scanner to enable consumers to confirm the price of a stock keeping unit. This price check scanner shall be in a location convenient to customers, with a sign of sufficient sized lettering, identifying this unit to the consumers. Such waiver shall not be granted unless the location and size of the sign are approved. The store may utilize this scanner to meet unanticipated customer checkout needs. A retail store failing to comply with this section may be assessed a penalty not to exceed three hundred dollars per violation.

4. Notify the St. Lawrence County Department of Weights and Measures of the installation of scanning equipment. A retail store failing to comply with this section may be assessed a penalty not to exceed three hundred dollars per establishment.

5. A notice must be posted for the consumer in a conspicuous location, of the granting of a waiver from item pricing within this store by the Director of the St. Lawrence County Department of Weights and Measures, and which shall state consumer rights under this local law. Such sign, content, size and location is to be approved by the Director of the St. Lawrence County Department of Weights and Measures.

B. The St. Lawrence County Department of Weights and Measures shall also have the authority to respond to consumer complaints of overcharges. In the event the programmed computer price exceeds the retail price, a penalty in the amount of one hundred dollars will be assessed. Inspections done in response to a consumer complaint shall not be considered as pricing accuracy inspections or result in greater penalties.

C. In the event the programmed computer price exceeds the retail price, the retail store will correct the pricing before the inspector leaves the store.

D. The following penalties are established for pricing accuracy inspection violations, based on a sample of not less than one hundred nor more than two hundred stock keeping units. A violation exists when the programmed computer price exceeds the retail price.

1. Ninety-eight (98%) or better pricing accuracy, pricing corrected.

2. Ninety-seven (97%) pricing accuracy, a penalty of five hundred dollars (\$500.00)

3. Ninety-six (96%) pricing accuracy, a penalty of seven hundred fifty dollars (\$750.00)

4. Ninety-five (95%) pricing accuracy, a penalty of one thousand dollars (\$1,000.00).

5. Below ninety-five (95%) pricing accuracy, a penalty of fifteen hundred dollars (\$1,500.00)

E. If a retail store fails to achieve a pricing accuracy level of ninety-five percent (95%) on two consecutive pricing accuracy inspections, on a sample of not less than one hundred nor more than two hundred stock keeping units, a penalty in the amount of two thousand dollars (\$2,000.00) will be assessed.

F. OBTAINING THE WAIVER FROM ITEM PRICING:

1. Every retail store which uses a computer assisted checkout system and which would otherwise be required to item price as provided in Section Three of this local law, may make application in writing to the St. Lawrence County Department of Weights and Measures for a waiver of said item pricing requirement. A separate application shall be required for each store. Each application shall be subject to a non-refundable processing fee to cover the cost of conducting scanner accuracy inspections as provided in Section Seven (F)(2). The St. Lawrence County Department of Weights and Measures shall determine the processing fee and revise it from time to time to reflect the costs, but in no case shall said fee exceed seven hundred fifty dollars (\$750.00).
2. Upon receipt of an application and fee, the St. Lawrence County Department of Weights and Measures shall cause to be conducted two scanner accuracy inspections of the store for which the application has been submitted. These inspections shall be conducted on two separate days, and in a manner prescribed by this section excepting, however, that a minimum of one hundred store stock keeping items (SKI's) shall be checked at each inspection. In the event that any violations are detected, a penalty shall be assessed and provided as in this local law. If, considering both inspections together, the number of SKI's found to be in violation does not exceed two percent (2%) of all SKI's inspected, the St. Lawrence County Department of Weights and Measures shall grant to the applicant a one year revocable waiver from the item pricing requirement.
3. A waiver from item pricing shall be valid for a period of one year from the date of issuance. Stores may reapply annually for renewal of a waiver. The processing fee and two inspections shall be required for each annual renewal application, as is required for an original waiver application.
4. In the event that total violations in excess of two percent (2%) are discovered in the inspections provided for, the St. Lawrence County Department of Weights and Measures shall not grant a waiver to the applicant. Such a store must promptly reapply for a waiver, and pay the required fee to the St. Lawrence County Department of Weights and Measures within five (5) business days after being notified of the failure. Stores which do not reapply must be in compliance with all the requirements of the item pricing law.
5. In the event that the St. Lawrence County Department of Weights and Measures is unable to conduct inspections pursuant to this section within thirty (30) days of receipt of a complete waiver application and proper processing fee, the St. Lawrence County Department of Weights and Measures shall grant a temporary waiver, pending completion of the inspections. The St. Lawrence County Department of Weights and Measures shall cause said inspections to be completed as soon as practicable. If upon completion, the inspections detect a violation rate of two percent (2%) or less, the St. Lawrence County Department of Weights and Measures shall issue a regular waiver, with an expiration date of one year from the commencement date of the temporary waiver. If the inspections detect a violation rate in excess of two percent (2%), the

temporary waiver shall be immediately revoked and the provisions of this section shall apply.

G. SUPER REFUND

Any person who suffers a loss because the price charged for a stock keeping item, by a store which has been granted a waiver from item pricing pursuant to Section Seven of this local law, is greater than the least price of the item, shelf, sale or advertised price, may seek special payment by notifying the store in person or in writing that the price charged is more than the item, sale, shelf or advertised price. The notice shall include evidence of the loss suffered by the consumer. As soon as practical, and in any case, within one hour after receipt of such notification and verification of the overcharge, the store shall tender to the consumer an amount equal to the difference between the price charged and the least of the item, sale, shelf or advertised price, plus an amount equal to ten times that difference, but not less than one dollar nor more than ten dollars. If the loss is suffered by one consumer within one transaction on two or more identical stock keeping items, the amount to be tendered by the store shall be the difference on each item, plus an amount equal to ten times the difference on a single item, but not less than one dollar nor more than ten dollars.

נספח מס' 13

חוק סימון מחירים של מחוז קוויבק, קנדה

Price marking in Québec

New regulatory rules

The objective: accurate prices

In 1998 the Office de la protection du consommateur (OPC) set up a working committee to review and update regulatory rules regarding the application of section 223 of the *Consumer Protection Act* whereby merchants are required to indicate prices on all goods sold in their establishments. This working committee included representatives from the retail industry, various consumer associations and the OPC. During the revision process the group considered new business practices, current consumer behaviour and attitudes as well as new technology. The committee also had a responsibility to ensure that the proposed measures followed the principles that govern consumer protection in Québec.

As a result of the committee's work the government adopted new provisions that will be in force by February 23th, 2001

and will be allowing merchants using scanner technology to benefit from a general exemption for their establishments, provided they comply with specific requirements in the area of price marking and price accuracy, as outlined in the regulation.

Please note however that section 223 of the Act covering individual price labels and the principle behind this section remain strictly unchanged. The new measures modify the *Regulation respecting the application of the Consumer Protection Act (RCP)* only, adding a number of categories of goods exempted from the application of section 223 and introducing a general exemption merchants will be able to obtain for their establishments.

Consequently, merchants will in the future have the option of choosing between marking prices on all non-exempt goods offered for sale in their establishments or taking advantage of the newly introduced general exemption.

The OPC will enforce and supervise the application of section 223 of the *Consumer Protection Act* (CPA) and new regulatory rules.

THE ACT REMAINS UNCHANGED

No changes were made to section 223 of the *Consumer Protection Act*. The obligation to individually label all goods is maintained for the overall retail industry in Québec, except in specific cases where exemptions are provided for in the regulation. Section 223 of the CPA is reproduced in the attached appendix.

EXEMPTIONS PROVIDED FOR IN THE REGULATION

The Regulation respecting the application of the Act (RCP) will provide for now on for two types of exemptions in the area of individual price labels. The first exemption, outlined in section 91.1 of the RCP is applicable to all merchants. It allows merchants not to mark prices on goods covered by the categories listed in this section. One such exemption already existed in the regulation, but the list of categories for exempt goods has been updated.

The second exemption will allow merchants using scanners to be exempted

from the obligation to mark prices on all goods offered for sale in their establishments, on the condition however that they satisfy all the requirements outlined in the regulation. This new exemption is provided for in sections 91.4 and 91.5 of the RCP.

MERCHANTS WHO ELECT TO LABEL GOODS

Merchants who elect to continue to mark prices on goods sold in their establishments will be required to do so on all goods, with the exception of articles that fall within the 13 categories listed in section 91.1 RCP, goods that are:

- a) for sale at a price not exceeding \$0.60;
- b) sold in automatic vending machines;
- c) food not packaged before sale;
- d) not packaged before sale and whose sale price is based on a unit of measure;
- e) for sale at a price lower than their usual price in the same establishment, where the usual price of those goods is clearly and legibly posted near the place where they are for sale;
- f) not directly available to the consumer in the establishment and must be obtained from the merchant or his representative on request;
- g) part of a package, where the price of the package is indicated on it or where the wrapper of the package is to be reused by the manufacturer;
- h) marked with a sale price that the merchant does not intend to change;
- i) sold as frozen food;
- j) so small as to make it impossible to read the price;
- k) usually sold from bulk, without packaging, except items of clothing;
- l) trees, plants or flowers;
- m) sold in returnable containers.

Although it is not mandatory for merchants to show a price on each article listed, they are however required to post up the price clearly and legibly in proximity to the display location of the

goods in the establishment.

Prices for goods not directly accessible to consumers can also be indicated on a list or in a catalogue the consumer may consult on the premises, except when the establishment sells mainly:

- food; or
- non-prescription drugs, personal hygiene products and cleaning products.

Such establishments are required to post a sign showing the price of goods not directly accessible to consumers in proximity to the location where these goods are sold.

MERCHANTS WHO CHOOSE THE GENERAL EXEMPTION

The new rules will allow merchants to take advantage of a general exemption with respect to the obligation to affix labels to goods sold in their establishments, on the condition however that they rigorously satisfy all the requirements outlined in the regulation for this particular exemption and that they also adopt and implement an Accurate Price Policy.

The requirements merchants must satisfy to qualify for this exemption are as follows:

- 1) Merchants must use Universal Product Code scanner technology in their establishments.
- 2) All scanners in their establishments, including scanners for consumer use, as well as all label printing devices must be linked to **the same**

database.

- 3) **Shelf labels** must be displayed for all articles sold in the establishment.

The prescribed size of these labels is 12.90 cm² for food products and 9.67 cm² for all other retail items. The labels must give customers the following information:

- the nature of the goods and the characteristics that affect price or distinguish the goods from other articles of the same nature, namely brand name and size;
- the price of the goods or, when price is based on a unit of measure, the price per unit of measure, and
- when food is sold in an establishment for which the Regulation respecting food (R.R.Q., 1981, c. P-29, r.1) requires the merchant to hold a permit, the price per unit of measure in addition to the price of the goods; this requirement applies to all food products, including items pre-packaged by the manufacturer.

Labels for goods displayed in areas other than shelves must be affixed in proximity to the location where the goods are offered for sale and measure no less than 38.71 cm².

- 4) In establishments where a minimum of 697 square metres of floor space are open to the public, **scanners** must be available for use by consumers. The number of scanners required is prescribed by regulation:

Number of scanners	Minimum floor space	Maximum floor space
0	Less than 697 m ²	
1	697 m ²	1859 m ²
2	1860 m ²	3719 m ²
3	3720 m ²	5579 m ²
4	5580 m ² or more	

5) The **cash register tape** must show the following information:

- the merchant's name;
- the merchant's telephone number;
- if applicable, the merchant's email address or that of the Customer Service Department;
- the date of the transaction;
- the nature of each article purchased and, if applicable, the brand name; and
- item identification followed by the price of each article purchased.

This general exemption does not apply to clothing sold in the merchant's establishment or to goods not labelled with a Universal Product Code. The general rule for individual labelling and exceptions for specific goods apply to these articles.

Merchants have **four months** from the effective date of the amendments to the regulation, as for June 23th, 2001, to install the required number of scanners for consumer use and to indicate food prices per unit of measure.

Sections 91.1 to 91.5 of the RCP are reproduced in the attached appendix.

ACCURATE PRICE POLICY

Every merchant availing himself of the

general exemption is required to adopt an "Accurate Price Policy" in every establishment where he wishes to take advantage of this exemption. The minimum requirements for this policy are as follows:

- should the price at the cash register be higher than the advertised price, the lowest price will prevail;
- should the error pertain to an article costing exactly \$10 or less, the article in question will be given to the customer free of charge;
- if the error pertains to an article costing more than \$10, the merchant will correct the error and give \$10 to the consumer;
- should the same error reoccur for identical goods in the same transaction, the price of each item will be corrected but the compensation policy will only apply to one article;
- this compensation policy will not be applicable if it violates existing laws or regulations, meaning that it cannot allow a merchant to sell an article at a price lower than the minimum price set by law or regulation (e.g. milk, beer, wine) and does not apply to articles for which discounts are prohibited (e.g. tobacco and medication);
- this policy is applicable immediately upon discovery and recording of the error at the cash register, even if the transaction at the cash register has not been completed, provided the

consumer purchases the goods.
Under the regulation, merchants who take advantage of the general exemption with regard to individual labelling will need to inform their customers of this Accurate Price Policy by posting notices near the cash registers and in the case of large establishments, by posting large signs. In addition, they will be required to periodically publish the Accurate Price Policy in their circulars.

The Customer Service Department of the *Protégez-Vous* magazine will sell standard "Accurate Price Policy" notices and signs for \$2 and \$15 respectively, plus taxes and shipping costs.

This department can be reached by telephone at (514) 875-4444 or 1 800 667-4444, and by telecopier at 514 523-4444.

The decree enacting the rules regarding the "Accurate Price Policy" is reproduced in the attached appendix.

PENALTIES

Anyone found guilty of an offence under the CPA in relation to price marking or the Accurate Price Policy is liable to a fine ranging from \$600 to \$100,000. For repeat offences, the minimum and maximum fine amounts will be doubled.

This Business Letter was prepared by the Direction des communications, de la recherche et prospective of the Office de la protection du consommateur in cooperation with the Direction des affaires juridiques. You can obtain copies of this Business letter by contacting your business association or the Direction des communications, de la recherche et prospective at the following address:

Direction des communications, de la recherche et prospective
Office de la protection du consommateur
400 boulevard Jean-Lesage, bureau 450, Québec, Québec G1K 8W4

or by visiting the OPC Web site at www.opc.gouv.qc.ca

For more information on the Accurate Price Policy or price marking, please call the following number:

1 888 OPC-ALLO
(1 888 672-2556)

APPENDIX

SECTION 223 OF THE *CONSUMER PROTECTION ACT*

Sale price must be indicated

223. A merchant must indicate the sale price clearly and legibly on all the goods or, if the goods are wrapped, on the wrapping of all the goods offered for sale in his establishment, subject to the regulations. 1978, c. 9, s.223.

SECTIONS 91.1 TO 91.5 OF THE *REGULATION RESPECTING THE APPLICATION OF THE CONSUMER PROTECTION ACT*

(as they will be read from February 23th, 2001)

91.1. Section 223 of the Act does not apply to goods that are:

- a) for sale at a price not exceeding \$0.60;
- b) sold in automatic vending machines;
- c) food not packaged before sale;
- d) not packaged before sale and whose sale price is based on a unit of measure;
- e) for sale at a price lower than their usual price in the same establishment, where the usual price of those goods is clearly and legibly posted near the place where they are for sale;
- f) not directly available to the consumer in the establishment and must be obtained from the merchant or his representative on request;
- g) part of a package, where the price of the package is indicated on it or where the wrapper of the package is to be reused by the manufacturer;
- h) marked with a sale price that the merchant does not intend to change;
- i) sold as frozen food;
- j) so small as to make it impossible to read the price;
- k) usually sold from bulk, without packaging, except items of clothing;
- l) trees, plants or flowers;
- m) sold in returnable containers.

91.2. Revoked

91.3 Where a merchant avails himself of an exemption pursuant to section 91.1, the price of an article thus exempted, including an article in a package when such article can be purchased separately from the package, must be clearly and legibly displayed near the place where the article is sold.

However, if an article referred to in paragraph f) of section 91.1 covering goods not directly available to consumers is for sale in an establishment other than an establishment where mainly foods, or non-prescription drugs, personal hygiene products and cleaning products are sold, its price may, rather than be posted in accordance with the first paragraph, be indicated on a list or catalogue that the consumer may consult on the premises.

91.4. A merchant who uses Universal Product Code scanner technology in his establishment is exempt from the application of section 223 of the Act, where all the following conditions are fulfilled:

a) all scanners in the establishment, including scanners for consumer use, and devices used to print the labels prescribed in section 91.5 are linked to a single database containing the prices of goods sold in such establishment;

b) the scanners used by cashiers and consumers have the ability to display the price of goods labelled with a Universal Product Code sold in the establishment;

c) the label prescribed in section 91.5 is affixed in accordance with the requirements of this section to every article covered by this section and sold in the establishment.

d) the cash register tape handed to the consumer after each transaction includes the following information:

i. the merchant's name

ii. the merchant's telephone number and, if applicable, his e-mail address or that of his Customer Service Department;

iii. the date of the transaction;

iv. the nature of each article purchased and, if applicable, the brand name;

v. item identification followed by the price of each article purchased;

e) in an establishment where 697 square meters or more of floor space are open to the public, a number of scanners are available for consumer use, evenly distributed in the establishment and positioned in such a way that they are easily accessible, such number being:

i. one, where at least 697 square metres, but less than 1,860 square metres of floor space are open to consumers;

ii. two, where at least 1,860 square metres, but less than 3,720 square metres of floor space are open to consumers;

iii. three, where at least 3,720 square metres, but less than 5,580 square metres of floor space are open to consumers;

iv. four, where 5,580 square metres or more of floor space are open to consumers.

The merchant may not however avail himself of this exemption with regard to items of clothing sold in his establishment or goods not labelled with a Universal Product Code.

The requirement under paragraph e) of this section will only come into force on June 23th, 2001.

91.5. Every article in respect of which the merchant avails himself of the exemption under section 91.4 must carry a label showing the following information:

a) the nature of the goods and the characteristics that affect price or distinguish the goods from other articles of the same nature, namely brand name and size when applicable;

b) the price of the goods or, when price is based on a unit of measure, the price per unit of measure;

c) when food is sold in an establishment for which the merchant is required to hold a permit pursuant to the Regulation respecting food (R.R.Q., 1981, c. P-29, r.1), the price per unit of measure in addition to the price of the goods.

In all cases the price of the goods on the label must be printed using a bold typeface no smaller than 28 points and all other information, using a typeface no smaller than 10 points.

When the article is sold on a shelf, the label prescribed in the first paragraph of this section must be affixed next to the goods on the shelf on which these articles are sold and must measure no less than:

a) 12.90 square centimetres, in an establishment for which the merchant is required to hold a permit issued pursuant to the Regulation respecting food;

b) 9.67 square centimetres in other establishments.

Labels for goods displayed in an area other than a shelf must be affixed in proximity to the location where the goods are sold and measure no less than 38.71 square centimetres.

The requirement under paragraph c) of this section will only come into force on June 23th, 2001.

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Policy on accurate pricing for merchants who use optical scanner technology

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WHEREAS, under section 314 of the Consumer Protection Act (R.S.Q., c. P-40.1), the president of the Office de la protection du consommateur may accept a voluntary undertaking from a person with the object of governing relations between a merchant, or a group of merchants, and consumers ;

WHEREAS, under section 315.1 of the Consumer Protection Act, the Government may, by order and with or without modification, extend the application of a voluntary undertaking made under section 314 of that same Act to all merchants in the same sector of activity, for all or part of the territory of Québec ;

WHEREAS a number of merchants who use the universal product code optical scanning technology and wish to take advantage of the exemption prescribed in section 91.4 of the Regulation respecting the application of the Consumer Protection Act (R.R.Q., 1981, c. P-40.1, r. 1), introduced by section 4 of the Regulation to amend the Regulation respecting the application of the Consumer Protection Act made by Order in Council 10-2001 dated 11 January 2001, signed a voluntary undertaking to adopt and apply a policy to ensure the accurate pricing of the goods sold in their establishments ;

WHEREAS it is appropriate, in the interest of the public, to extend the application of the voluntary undertaking to all merchants who use the universal product code optical scanning technology and take advantage of the aforementioned exemption, for all of the territory of Québec;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), notice was given in Part 2 of the *Gazette officielle du Québec* of 5 July 2000 that the Government could extend the application of the voluntary undertaking, the text of which is attached hereto, to all merchants who use the universal product code optical scanning technology and take advantage of the exemption prescribed in section 91.4 of the Regulation respecting the application of the Consumer Protection Act, for all of the territory of Québec ;

WHEREAS it is expedient to make this Order in Council ;

IT IS ORDERED, , therefore, upon the recommendation of the Minister of Relations with the Citizens and Immigration :

THAT the application of the voluntary undertaking attached to this Order in Council be extended to all merchants who use the universal product code optical scanning technology and take advantage of the exemption prescribed in section 91.4 of the Regulation respecting the application of the Consumer Protection Act, for all of the territory of Québec ;

THAT this Order in Council comes into force on 24 February 2001.

Voluntary Undertaking

Consumer Protection Act

(R.S.Q., c. P-40.1, s. 315.1)

The merchant shall undertake to implement the mechanisms necessary to achieve and maintain the accurate pricing of the goods sold in his establishment and, with-out restricting the scope of the preceding, THE MERCHANT UNDERTAKES AS FOLLOWS:

ACCURATE PRICING POLICY

1. For each establishment in which the merchant intends to use the exemption prescribed in section 91.4 of the Regulation respecting the application of the Consumer Protection Act (R.R.Q., 1981, c. P-40.1, r. 1), introduced by section 4 of the Regulation to amend the Regulation respecting the application of the Consumer Protection Act made by Order in Council 10-2001 dated 11 January 2001, the merchant shall adopt and apply an accurate pricing policy offering consumers compensation in the case of an unfavourable error corresponding to the following minimum standards :

- (1) where the price of the good rung in at the check-out is higher than the price advertised, the lower price shall be honoured and :
 - (a) the merchant shall give the good to the consumer free of charge, if the accurate price of the good is \$10 or less ; or
 - (b) the merchant shall correct the price and grant the consumer a discount of \$10 on the corrected price, if the accurate price of the good is higher than \$10 ;
- (2) where the same error occurs in respect of identical goods during the same transaction, the merchant shall correct each of the errors but compensate the consumer in accordance with subparagraph a for only one of those goods ;
- (3) the accurate pricing policy shall apply even if the error is noticed before the transaction is completed, on the condition however that the consumer buys the good ;
- (4) the accurate pricing policy shall not apply in respect of a specific good if its application contravenes an act or regulation.

2. The merchant shall post in a conspicuous place, near each check-out in the establishment and near each optical scanner made available to consumers, the accurate pricing policy in dark, easily legible letters on the white background of a sign measuring at least 387 square centimetres and on which only the policy appears. Where the area of the establishment open to the consumers is 697 square metres or more, the merchant shall also post the policy in a conspicuous place in the establishment in dark, easily legible letters on the white background of a sign measuring at least 0.56 square metres and on which only the policy appears.

3. The accurate pricing policy shall be printed in the merchant's flyer at least once during each trimester of publication of the flyer.

REIMBURSEMENT OF THE COSTS OF INVESTIGATION

4. The merchant shall reimburse the Office de la protection du consommateur for the costs of any investigation carried out under the authority of the president of the Office in accordance the powers conferred on the president by the Act, to verify the pricing accuracy rate in the establishment up to :

(1) \$250 upon the first investigation ;

(2) \$1000 upon the second investigation if that second investigation is carried out within six months following a notice given by the president of the Office according to which the first investigation showed a pricing error rate of more than 2% in the establishment.

INTERPRETATION

5. For the purposes of this voluntary undertaking :

“pricing accuracy” means the conformity of prices rung in at the check-out with the advertised price in respect of a good sold in the establishment ;

“pricing accuracy rate” means the percentage of goods that are part of a transaction in which the price rung in at the check-out is identical to the advertised price ;

“pricing error rate” means the percentage of goods that are part of a transaction in which the price rung in at the check-out is higher than the advertised price.

6. For the purposes of this voluntary undertaking, the pricing error of a good in an advertisement shall not be taken into account in the calculation of the pricing error rate nor for the application of the accurate pricing policy described in section 1 as of the moment when the merchant posts, in a conspicuous place, a mention of the error and the correction made, near the place where the good is sold and near the check-outs in the establishment.

This provision does not restrict the scope of paragraph c of section 224 of the Consumer Protection Act.

FINAL PROVISIONS

7. A merchant who contravenes any provision of this voluntary undertaking commits an offence under paragraph d of section 277 of the Act.

8. The provisions of this undertaking shall take effect once the merchant begins to use the exemption prescribed in section 91.4 of the Regulation and they shall cease to apply on the date on which the merchant ceases to use that exemption provided that he notifies the president of the Office de la protection du consommateur of that fact in writing at least 15 days before that date.

נספח מס' 15. חוק סימון מחירים של פיליפינים

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fifth Regular Session

Begun and held in Metro Manila, on Monday, the twenty
second day of July, nineteen hundred and ninety-one

REPUBLIC ACT NO. 7394

"The Consumer Act of the Philippines"

Be it enacted by the Senate and House of Representatives of the
Philippines in Congress assembled:

TITLE I
GENERAL PROVISIONS

ARTICLE 1. *Short Title* - This act shall be known as the "Consumer Act of the Philippines".

ARTICLE 2. *Declaration of Basic Policy*. – It is the policy of the State to protect the interest of the consumer, promote his general welfare and to establish standards of conduct for business and industry. Towards this end, the State shall implement measures to achieve the following objectives:

- a. protection against hazards to health and safety;
- b. protection against deceptive, unfair and unconscionable sales acts and practices;
- c. provision of information and education to facilitate sound choice and the proper exercise of rights by the consumer;
- d. provision of adequate rights and means of redress; and
- e. involvement of consumer representatives in the formulation of social and economic policies.

ARTICLE 3. *Construction*. - The best interest of the consumer shall be considered in the interpretation and implementation of the provisions of this Act, including its implementing rules and regulations.

CHAPTER IV

LABELING AND FAIR PACKAGING

ARTICLE 74. *Declaration of Policy* - The State shall enforce compulsory labeling, and fair packaging to enable the consumer to obtain accurate information as to the nature, quality and quantity of the contents of consumer products and to facilitate his comparison of the value of such products.

ARTICLE 75. *Implementing Agency* - The Department of Trade and Industry shall enforce the provisions of this Chapter and its implementing rules and regulations: Provided, That with respect to food, drugs, cosmetics, devices, and hazardous substances, it shall be enforced by the concerned department.

ARTICLE 76. *Prohibited Acts on Labeling and Packaging* - It shall be unlawful for any person, either as principal or agent, engaged in the labeling or packaging of any consumer product whose package or label does not conform to the provisions of this Chapter.

The prohibition in this Chapter shall not apply to persons engaged in the business of wholesale or retail distributors of consumer products except to the extent that such persons:

- a) are engaged in the packaging or labeling of such products;
- b) prescribe or specify by any means the manner in which such products are packaged or labeled; or
- c) having knowledge, refuse to disclose the source of the mislabeled or mispackaged products.

ARTICLE 77. *Minimum Labeling Requirements for Consumer Products* - All consumer products domestically sold whether manufactured locally or imported shall indicate the following in their respective labels of packaging:

- a) its correct and registered trade name or brand name;
- b) its duly registered trademark;
- c) its duly registered business name;
- d) the address of the manufacturer, importer, repacker of the consumer product in the Philippines;
- e) its general make or active ingredients;
- f) the net quantity of contents, in terms of weight, measure or numerical count rounded off to at least the nearest tenths in the metric system;
- g) country of manufacture, if imported; and

h) if a consumer product is manufactured, refilled or repacked under license from a principal, the label shall so state the fact.

The following may be required by the concerned department in accordance with the rules and regulations they will promulgate under the authority of this Act:

- a) whether it is flammable or inflammable;
- b) directions for use, if necessary;
- c) warning of toxicity;
- d) wattage, voltage or amperes; or
- e) process of manufacture used, if necessary.

Any word, statement or other information required by or under authority of the preceding paragraph shall appear on the label or labeling with such conspicuousness as compared with other words, statements, designs, or devices therein, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase or use.

The above requirements shall form an integral part of the label without danger of being erased or detached under ordinary handling of the product.

ARTICLE 78. *Philippine Product Standard Mark* - The label may contain the Philippine Product Standard Mark if it is certified to have passed the consumer product standard prescribed by the concerned department.

ARTICLE 79. *Authority of the Concerned Department to Provide for Additional Labeling and Packaging Requirements* - Whenever the concerned department determines that regulations containing requirements other than those prescribed in Article 77 hereof are necessary to prevent the deception of the consumer or to facilitate value comparisons as to any consumer product, it may issue such rules and regulations to:

- a) establish and define standards for characterization of the size of a package enclosing any consumer product which may be used to supplement the label statement of net quantity, of contents of packages containing such products but this clause shall not be construed as authorizing any limitation of the size, shape, weight, dimensions, or number of packages which may be used to enclose any product;
- b) regulate the placement upon any package containing any product or upon any label affixed to such product of any printed matter stating or representing by implication that such product is offered for retail at a price lower than

the ordinary and customary retail price or that a price advantage is accorded to purchases thereof by reason of the size of the package or the quantity of its contents;

c) prevent the nonfunctional slack-fill of packages containing consumer products. For purposes of paragraph C of this Article, a package shall be deemed to be non-functionally slack-filled if it is filled to substantially less than its capacity for reasons other than (1) protection of the contents of such packaged, (2) the requirements of machines used for enclosing the contents in such package, or (3) inherent characteristics of package materials or construction being used.

ARTICLE 80. *Special Packaging of Consumer Products for the Protection of Children* - The concerned department may establish standards for the special packaging of any consumer product if it finds that:

a) the degree or nature of the hazard to children in the availability of such product, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling and use of such product; and

b) the special packaging to be required by such standard is technically feasible, practicable and appropriate for such product. In establishing a standard under this Article, the concerned department shall consider:

1) the reasonableness of such a standard;

2) available scientific, medical and engineering data concerning special packaging and concerning accidental ingestions, illnesses and injuries caused by consumer product;

3) the manufacturing practices of industries affected by this Article; and

4) the nature and use of consumer products.

ARTICLE 81. *Price Tag Requirement* - It shall be unlawful to offer any consumer product for retail sale to the public without an appropriate price tag, label or marking publicly displayed to indicate the price of each article and said products shall not be sold at a price higher than that stated therein and without discrimination to all buyers: Provided, That lumber sold, displayed or offered for sale to the public shall be tagged or labeled by indicating thereon the price and the corresponding official name of the wood: Provided, further, That if consumer products for sale are too small or the nature of which makes it impractical to place a price tag thereon price list placed at the nearest point where the products are displayed indicating the retail price of the same may suffice.

ARTICLE 82. *Manner of Placing Price Tags* - Price tags, labels or markings must be written clearly, indicating the price of the consumer product per unit is pesos and centavos.

ARTICLE 83. *Regulations for Price Tags Placement* - The concerned department shall prescribe rules and regulations for the visible placement of price tags for specific consumer products and services. There shall be no erasures or alterations of any sort of price tags, labels or markings.

ARTICLE 84. *Additional Labeling Requirements for Food* - The following additional labeling requirements shall be imposed by the concerned department for food:

- a) expiry or expiration date, where applicable;
- b) whether the consumer product is semi-processed, fully processed, ready-to-cook, ready-to-eat, prepared food or just plain mixture;
- c) nutritive value, if any;
- d) whether the ingredients used are natural or synthetic, as the case may be;
- e) such other labeling requirements as the concerned department may deem necessary and reasonable.

ARTICLE 85. *Mislabeled Food* - A food shall also be deemed mislabeled:

- a) if its labeling or advertising is false or misleading in any way;
- b) if it is offered for sale under the name of another food;
- c) if it is an imitation of another food, unless its label bears in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated;
- d) its containers is so made, formed, or filled as to be misleading;
- e) if in package form unless it bears a label conforming to the requirements of this Act: Provided, That reasonable variation on the requirements of labeling shall be permitted and exemptions as to small packages shall be established by the regulations prescribed by the concerned department of health;
- f) if any word, statement of other information required by or under authority of this Act to appear on the principal display panel of the label or labeling is not prominently place thereon with such conspicuousness as compared with other words, statements, designs or devices in the labeling and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- g) if it purports to be or is represented as a food for which a definition or standard of identity has been prescribed unless:
 - 1) it conforms to such definition and standard; and

2) its labels bears the name of the food specified in the definition or standards, and in so far as may be required by such regulations, the common names of optional ingredients other than spices, flavoring and coloring, present in such food;

h) if it purports to be or is represented as:

1) a food for which a standard of quality has been prescribed by regulations as provided in this Act and its quality fall below such standard, unless its label bears in such manner and form as such regulations specify, a statement that it falls below such standard; or

2) a food for which a standard of standards or fill of container have been prescribed by regulations as provided by this ACT and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

i) if it is not subject to the provisions of paragraph (g) of this Article unless its label bears:

1) the common or usual name of the food, if there be any; and

2) in case it is manufactured or processed from two or more ingredients, the common or usual name of such ingredient; except the spices, flavorings and colorings other than those sold as such, may be designated as spices, flavorings and colorings without naming each: Provided, That to the extent that compliance with the requirement of the clause (2) of this paragraph is impracticable or results in deception or unfair competition exemptions shall be established by regulations promulgated by the concerned department of health;

j) if it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin or mineral or other dietary properties as the concerned department determines to be, or by regulations prescribed as necessary in order fully to inform purchases as its value for such uses;

k) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling, stating that fact: Provided, that to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the concerned department. The provisions of this paragraph or paragraphs (g) and (i) with respect to the artificial coloring shall not apply in the case of butter, cheese or ice cream.

ARTICLE 173. *Effectivity* - This Act shall take effect thirty (30) days from the date of its publication in the Official Gazette.

Approved:

(Sgd) RAMON V. MITRA
Speaker of the House

(Sgd.) NEPTALI A. GONZALES
President of the Senate

of Representatives

This bill which is a consolidation of Senate Bill No. 1820 and House Bill No. 33757, was finally passed by the Senate and the House of Representatives on February 6, 1992

(Sgd.) CAMILO L. SABIO

Secretary

House of Representatives

(Sgd.) ANACLETO D. BADOY, JR.

Secretary of the Senate

Approved: April 13, 1992

(Sgd.) CORAZO N C. AQUINO

President of the Philippines

נספח מס' 15

**רשימת קנסות שהוטלו על מפרי חוק סימון מחירים במחוז סופוק,
מדינת ניו יורק, ארה"ב**

Consumer Affairs

Steve Levy
County Executive

Charles A. Gardner
Director

Item Pricing

KNOW YOUR RIGHTS AS A CONSUMER!

Do you know that many items that are offered for sale in Suffolk County are required to have the individual price of the item tagged, stamped, or marked on the item itself? This is in addition to any prices that may be posted on a shelf face or a sign, store circular or store window.

There are some exceptions but most items in the following groups are required to have such individual item prices:

- A) Food and pet food.
- B) Paper goods, wrappings or containers used for storage, handling or serving of food.
- C) Detergents, soaps, cleaning agents, cleaning implements.
- D) Non prescription drugs, hygiene products, health and beauty aids.

With some exception, these items are required to be marked regardless of the type of store where they might be offered for sale.

You may call 631-853-5730 if you have any complaints or inquiries about the item pricing law as it applies in Suffolk County.

Following is a list of stores that have received violations from the Office of Consumer Affairs for failing to properly item price commodities offered for sale since January of 2003:

<u>Business Name</u>	<u>Town</u>	<u>Date</u>	<u>Penalty</u>
BEST YET MARKET #2	RONKONKOMA	5/5/2003	\$250.00
BEST YET MARKET #2	RONKONKOMA	9/2/2003	\$300.00
CVS #1115	LINDENHURST	8/1/2003	\$375.00
CVS #1115	LINDENHURST	4/7/2004	\$750.00
CVS #1117	BOHEMIA	4/12/2004	\$200.00
CVS #1163	PORT JEFFERSON STATION	4/6/2004	\$300.00
CVS #1186	SELDEN	4/6/2004	\$200.00
CVS #1190	CENTER MORICHES	4/7/2003	\$325.00
CVS #1190	CENTER MORICHES	4/2/2004	\$400.00
CVS #1192	HOLBROOK	4/7/2003	\$175.00

CVS #1222	DEER PARK	11/19/2003	\$450.00
CVS #1228	NORTHPORT	4/8/2003	\$325.00
CVS #1271	ROCKY POINT	4/9/2003	\$325.00
CVS #1271	ROCKY POINT	4/5/2004	\$500.00
CVS #1935	NORTHPORT	4/8/2004	\$300.00
CVS #1950	ISLIP TERRACE	4/5/2004	\$100.00
CVS #2059	NORTH BABYLON	4/2/2004	\$500.00
CVS #2059	WEST BABYLON	4/8/2003	\$175.00
CVS #206	DIX HILLS	11/19/2003	\$500.00
CVS #2211	LINDENHURST	4/7/2003	\$325.00
CVS #2211	LINDENHURST	4/7/2004	\$500.00
CVS #2225	NESCONSET	4/7/2003	\$250.00
CVS #2285	SMITHTOWN	4/6/2004	\$400.00
CVS #2286	RONKONKOMA	4/8/2003	\$150.00
CVS #236	BAY SHORE	4/9/2003	\$250.00
CVS #2698	PORT JEFFERSON STATION	4/6/2004	\$200.00
CVS #275	MEDFORD	4/5/2004	\$300.00
CVS #2960	PORT JEFFERSON	4/6/2004	\$400.00
CVS #325	SELDEN	4/8/2003	\$325.00
CVS #325	SELDEN	4/6/2004	\$750.00
CVS #390	RONKONKOMA	4/8/2003	\$175.00
CVS #4452	NORTH BABYLON	4/8/2003	\$175.00
CVS #4452	NORTH BABYLON	4/2/2004	\$400.00
CVS #4455	EAST NORTHPORT	4/9/2003	\$325.00
CVS #5062	SOUTHAMPTON	4/7/2003	\$325.00
CVS #5062	SOUTHAMPTON	4/2/2004	\$350.00
CVS #5063	EAST HAMPTON	4/7/2003	\$325.00
CVS #5063	EAST HAMPTON	2/2/2004	\$1,000.00
CVS #509	CENTRAL ISLIP	4/10/2003	\$325.00
CVS #509	CENTRAL ISLIP	7/23/2003	\$50.00
CVS #509	CENTRAL ISLIP	4/7/2004	\$200.00
CVS #5372	PATCHOGUE	4/8/2003	\$325.00
CVS #5372	PATCHOGUE	4/5/2004	\$250.00
CVS #5446	EAST NORTHPORT	4/9/2004	\$200.00
CVS #553	AMITYVILLE	4/7/2003	\$175.00
CVS #553	AMITYVILLE	4/7/2004	\$750.00
CVS #5753	CENTER MORICHES	7/23/2003	\$500.00
CVS #5753	CENTER MORICHES	4/2/2004	\$500.00
CVS #6025	CENTEREACH	4/7/2003	\$250.00
CVS #6026	RIVERHEAD	4/8/2003	\$325.00
CVS #6026	RIVERHEAD	4/5/2004	\$750.00
CVS #7621	COPIAGUE	4/2/2004	\$250.00
CVS #848	BELLPORT	4/9/2003	\$100.00
CVS #848	BELLPORT	4/9/2003	\$250.00
CVS #848	BELLPORT	4/5/2004	\$750.00
CVS #922	WEST ISLIP	4/9/2003	\$250.00
CVS #922	WEST ISLIP	4/2/2004	\$300.00
ECKERD DRUGS #5626	FARMINGDALE	12/18/2003	\$350.00
KMART #4868	RIVERHEAD	4/9/2003	\$500.00
KMART #4871	FARMINGVILLE	4/8/2003	\$1,000.00
KMART #9423	BRIDGEHAMPTON	4/7/2003	\$200.00
KMART #9423	BRIDGEHAMPTON	11/18/2003	\$150.00
PATHMARK #600	BRENTWOOD	4/2/2004	\$500.00
PATHMARK #602	BAY SHORE	4/9/2003	\$100.00
PATHMARK #602	BAY SHORE	4/5/2004	\$200.00

PATHMARK #604	PORT JEFFERSON STATION	9/23/2003	\$400.00
PATHMARK #604	PORT JEFFERSON STATION	4/6/2004	\$800.00
PATHMARK #614	PATCHOGUE	4/8/2003	\$100.00
PATHMARK #614	PATCHOGUE	4/5/2004	\$500.00
PATHMARK #615	NORTH BABYLON	10/29/2003	\$500.00
PATHMARK #615	NORTH BABYLON	2/5/2004	\$1,000.00
PATHMARK #615	NORTH BABYLON	4/2/2004	\$750.00
PATHMARK #620	COMMACK	4/8/2004	\$300.00
PATHMARK #639	ISLIP	9/3/2003	\$400.00
PATHMARK #639	ISLIP	4/5/2004	\$800.00
PATHMARK #641	HOLBROOK	4/5/2004	\$500.00
PATHMARK #644	WEST BABYLON	4/7/2004	\$500.00
PATHMARK #646	SHIRLEY	4/7/2003	\$1,750.00
PATHMARK #646	SHIRLEY	4/5/2004	\$1,000.00
PATHMARK #663	CENTEREACH	4/7/2003	\$200.00
PATHMARK #663	CENTEREACH	2/6/2004	\$425.00
PATHMARK #663	CENTEREACH	4/5/2004	\$300.00
PATHMARK #664	DIX HILLS	4/8/2004	\$1,000.00
PATHMARK #664	HUNTINGTON STATION	6/10/2003	\$100.00
SHOPRITE #821	BAY SHORE	11/13/2003	\$250.00
SHOPRITE #831	HAUPPAUGE	9/23/2003	\$500.00
STOP & SHOP #560	SMITHTOWN	2/28/2003	\$600.00
STOP & SHOP #571	ISLANDIA	2/2/2004	\$225.00
STOP & SHOP #585	LAKE GROVE	2/4/2004	\$475.00
SUPER FOODTOWN #511	WEST BABYLON	9/19/2003	\$400.00
SUPER FOODTOWN #511	WEST BABYLON	2/2/2004	\$1,000.00
TARGET #1108	COMMACK	9/23/2003	\$500.00
TARGET #1148	BAY SHORE	2/2/2004	\$500.00
TARGET #1387	COMMACK	11/14/2003	\$500.00
TARGET #1387	COMMACK	2/6/2004	\$1,000.00
TRADER JOE'S #551	COMMACK	2/5/2004	\$425.00
TRADER JOE'S EAST INC	LAKE GROVE	2/4/2004	\$500.00
WALDBAUMS #203	COMMACK	8/1/2003	\$500.00
WALDBAUMS #203	COMMACK	2/5/2004	\$1,000.00
WALDBAUMS #212	RIVERHEAD	11/24/2003	\$300.00
WALDBAUMS #212	RIVERHEAD	2/3/2004	\$1,500.00
WALDBAUMS #214	HAUPPAUGE	11/12/2003	\$500.00
WALDBAUMS #214	HAUPPAUGE	2/3/2004	\$1,000.00
WALDBAUMS #215	COMMACK	2/19/2003	\$1,900.00
WALDBAUMS #215	COMMACK	4/9/2003	\$700.00
WALDBAUMS #215	COMMACK	2/2/2004	\$1,400.00
WALDBAUMS #217	GREENLAWN	2/4/2004	\$500.00
WALDBAUMS #229	CENTER MORICHES	1/2/2003	\$1,750.00
WALDBAUMS #229	CENTER MORICHES	2/19/2003	\$2,000.00
WALDBAUMS #229	CENTER MORICHES	4/7/2003	\$2,000.00
WALDBAUMS #229	CENTER MORICHES	7/23/2003	\$1,600.00
WALDBAUMS #229	CENTER MORICHES	2/4/2004	\$1,900.00
WALDBAUMS #232	WESTHAMPTON BEACH	2/19/2003	\$1,700.00
WALDBAUMS #232	WESTHAMPTON BEACH	4/8/2003	\$2,000.00
WALDBAUMS #232	WESTHAMPTON BEACH	7/23/2003	\$2,000.00
WALDBAUMS #232	WESTHAMPTON BEACH	2/4/2004	\$2,000.00
WALDBAUMS #236	HUNTINGTON	4/10/2003	\$1,500.00
WALDBAUMS #236	HUNTINGTON	9/2/2003	\$750.00
WALDBAUMS #236	HUNTINGTON	2/4/2004	\$1,500.00
WALDBAUMS #241	PATCHOGUE	2/5/2004	\$500.00

WALDBAUMS #251	LINDENHURST	2/2/2004	\$500.00
WALDBAUMS #253	CENTEREACH	4/7/2003	\$1,500.00
WALDBAUMS #253	CENTEREACH	7/23/2003	\$1,250.00
WALDBAUMS #253	CENTEREACH	12/15/2003	\$1,000.00
WALDBAUMS #253	CENTEREACH	2/2/2004	\$1,250.00
WALDBAUMS #257	EAST HAMPTON	2/20/2003	\$700.00
WALDBAUMS #257	EAST HAMPTON	2/2/2004	\$1,000.00
WALDBAUMS #257	EASTHAMPTON	11/18/2003	\$275.00
WALDBAUMS #260	SOUTHAMPTON	4/8/2003	\$1,500.00
WALDBAUMS #260	SOUTHAMPTON	2/2/2004	\$1,500.00
WALDBAUMS #261	MILLER PLACE	4/9/2003	\$350.00
WALDBAUMS #263	MATTITUCK	2/3/2004	\$700.00
WALDBAUMS #277	EAST SETAUKET	4/7/2003	\$1,000.00
WALDBAUMS #277	EAST SETAUKET	7/23/2003	\$1,700.00
WALDBAUMS #277	EAST SETAUKET	8/18/2003	\$1,500.00
WALDBAUMS #277	EAST SETAUKET	12/5/2003	\$1,000.00
WALDBAUMS #277	EAST SETAUKET	2/4/2004	\$1,000.00
WALDBAUMS #278	SMITHTOWN	4/7/2003	\$500.00
WALDBAUMS #278	SMITHTOWN	7/23/2003	\$500.00
WALDBAUMS #278	SMITHTOWN	2/2/2004	\$1,250.00
WALDBAUMS #286	HOLBROOK	2/20/2003	\$2,000.00
WALDBAUMS #286	HOLBROOK	4/7/2003	\$1,250.00
WALDBAUMS #286	HOLBROOK	7/23/2003	\$2,000.00
WALDBAUMS #286	HOLBROOK	2/3/2004	\$2,000.00
WALDBAUMS #288	OAKDALE	2/3/2004	\$700.00
WALDBAUMS #298	MELVILLE	2/5/2004	\$250.00
WALDBAUMS #601	STONY BROOK	2/19/2003	\$1,300.00
WALDBAUMS #601	STONY BROOK	4/7/2003	\$1,150.00
WALDBAUMS #601	STONY BROOK	2/3/2004	\$1,300.00
WALDBAUMS #604	SHIRLEY	1/2/2003	\$1,600.00
WALDBAUMS #604	SHIRLEY	2/19/2003	\$900.00
WALDBAUMS #604	SHIRLEY	4/7/2003	\$1,900.00
WALDBAUMS #604	SHIRLEY	7/23/2003	\$1,500.00
WALDBAUMS #604	SHIRLEY	2/5/2004	\$1,700.00
WALDBAUMS #611	ROCKY POINT	2/18/2003	\$2,000.00
WALDBAUMS #611	ROCKY POINT	4/9/2003	\$2,000.00
WALDBAUMS #611	ROCKY POINT	2/3/2004	\$2,000.00
WALDBAUMS #630	RONKONKOMA	2/4/2004	\$350.00
WALDBAUMS #660	EAST PATCHOGUE	2/19/2003	\$1,900.00
WALDBAUMS #660	EAST PATCHOGUE	7/23/2003	\$2,000.00
WALDBAUMS #660	EAST PATCHOGUE	2/5/2004	\$1,500.00
WALDBAUMS #661	WEST BABYLON	2/2/2004	\$500.00
WALDBAUMS #662	SELDEN	2/18/2003	\$2,000.00
WALDBAUMS #662	SELDEN	4/8/2003	\$2,000.00
WALDBAUMS #662	SELDEN	7/23/2003	\$2,000.00
WALDBAUMS #662	SELDEN	12/17/2003	\$2,000.00
WALDBAUMS #662	SELDEN	2/6/2004	\$100.00
WALDBAUMS #670	RIVERHEAD	2/19/2003	\$2,000.00
WALDBAUMS #670	RIVERHEAD	4/9/2003	\$2,000.00
WALDBAUMS #673	EAST ISLIP	2/18/2003	\$2,000.00
WALDBAUMS #673	EAST ISLIP	4/8/2003	\$2,000.00
WALDBAUMS #673	EAST ISLIP	7/23/2003	\$2,000.00
WALDBAUMS #673	EAST ISLIP	2/3/2004	\$1,200.00
WALDBAUMS #681	HUNTINGTON STATION	4/8/2003	\$1,600.00
WALDBAUMS #681	HUNTINGTON STATION	2/6/2004	\$1,800.00

WALDBAUMS #697	KINGS PARK	4/9/2003	\$700.00
WALDBAUMS #697	KINGS PARK	2/10/2004	\$1,200.00
WALDBAUMS #699	DEER PARK	2/3/2004	\$700.00
WALGREENS #05439	DEER PARK	2/18/2003	\$1,250.00
WALGREENS #05439	DEER PARK	11/5/2003	\$1,500.00
WALGREENS #2157	SMITHTOWN	2/2/2004	\$350.00
WALGREENS #2216	PATCHOGUE	2/19/2003	\$1,250.00
WALGREENS #2216	PATCHOGUE	2/5/2004	\$1,000.00
WALGREENS #3470	HUNTINGTON STATION	11/5/2003	\$1,000.00
WALGREENS #4687	MEDFORD	2/19/2003	\$1,250.00
WALGREENS #4687	MEDFORD	2/3/2004	\$1,000.00
WALGREENS #5135	SELDEN	2/18/2003	\$1,000.00
WALGREENS #5135	SELDEN	12/19/2003	\$1,500.00
WALGREENS #5439	DEER PARK	2/3/2004	\$500.00
WALGREENS #5956	AMITYVILLE	11/5/2003	\$500.00
WALGREENS #5956	AMITYVILLE	2/3/2004	\$1,000.00
WALMART #2156	MIDDLE ISLAND	2/18/2003	\$2,000.00
WALMART #2156	MIDDLE ISLAND	12/5/2003	\$1,200.00
WALMART #2156	MIDDLE ISLAND	2/2/2004	\$1,500.00
WALMART #2286	CENTEREACH	2/18/2003	\$1,000.00
WALMART #2286	CENTEREACH	9/2/2003	\$1,750.00
WALMART #2286	CENTEREACH	12/15/2003	\$700.00
WALMART #2286	CENTEREACH	2/2/2004	\$1,750.00
WALMART #2906	RIVERHEAD	11/25/2003	\$750.00
WALMART #2906	RIVERHEAD	2/3/2004	\$1,500.00
WALMART #2915	EAST SETAUKET	2/18/2003	\$500.00
WALMART #2915	EAST SETAUKET	12/5/2003	\$1,400.00
WALMART #2915	EAST SETAUKET	2/2/2004	\$750.00
WALMART #2917	ISLANDIA	2/18/2003	\$400.00
WALMART #2917	ISLANDIA	9/2/2003	\$1,500.00
WALMART #2917	ISLANDIA	2/2/2004	\$1,500.00