LOCAL LAW NO. 1 OF 1997
COUNTY OF OTSEGO, NEW YORK

SHELF MARKING AND SCANNER ACCURACY LAW

Section 1. Title

This local law shall be known as the Otsego County Shelf Marking and Scanner Accuracy Law.

Section 2. Definitions

For the purpose of this local law, the following terms shall have the following meanings:

a. "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 an in-house product code, or by use of its price look-up function.

b. "EASY TO READ" shall mean that all lettering on shelf price tags shall be visible and shall comply with the requirements set forth by the New York State Agriculture and Markets Law, or other applicable statute. Lettering shall be at least 3/8 of an inch in height for the selling price, 3/16 of an inch in height for the unit price and 1/16 of an inch in height for all other information on the price tag. Exceptions to this rule shall be made for items that are extremely small in size, and which vary in price from one item to the next such as spices, food coloring, food flavorings, cosmetics, and baby food. Other items may also be exempted from this, at the discretion of the Director of Weights and Measures.

c. "PRICING ACCURACY INSPECTION" shall mean an inspection of a retail store for purposes of determining the programmed computer prices are consistent with the retail price on 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.

d. "PROPERLY LOCATED" shall mean the placement of shelf price tags directly above or below a stock keeping unit.

e. "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.
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f. "RETAIL STORE" shall mean a store selling stock keeping units at retail and which charges sales tax.

g. "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 including "buy one (1) get one (1) free."

h. "STOCK KEEPING UNITS" shall mean each group of items offered for sale of the same brand name, quantity of contents, retail price, size or weight, and which may have present differing colors, flavors or varieties.

Section 3. Retail Stores That Fall Under This Law

A. Only retail stores using scanner checkout system or "computer assisted checkout system" in operation on and after the date of enactment of this local law shall be subject to the provisions herein, except for the following conditions which are being met providing the consumer protection purposes of this law.

I. Retail stores providing shelf marking prices, size, proper locations by units, clear visibility at all levels, consumer checkout visibility and easy to read receipts identifying the item purchased and amount charged.

II. Stores having the computer units indicating the retail price to the consumer at the point of selection and at the point of sale and which provide an easy to read receipt identifying the item purchased and amount charged.

B 1. Retail stores identified in one and two above are not required to have permanent public use scanners.

B 2. Other retail stores using checkout scanners are required to have a permanent public use checkout scanner and proper location signage to enable customers to check prices.

C. All scanner retail stores shall be covered by inspections of scanner accuracy and for the other consumer protection items contained in this law.

Section 4. Retail Pricing Requirements

Retail stores subject to this local law, as defined at Section 3 above, shall be required to comply with the following provisions:
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a. Display easy to read and properly located shelf tags or signs on every stock keeping unit or group of stock keeping units of the same brand, size and price. A retail store failing to meet a 98% compliance with this requirement from an inspection of not less than 100 nor more than 200 stock keeping units, which shall represent a cross section of all stock keeping units offered for sale, shall be deemed to not be in conformance with this requirement. Stores individually pricing each item shall be exempt from this section.

b. Achieve and maintain a pricing accuracy level of at least 98% from an inspection of not less than 100 nor more than 200 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.

c. Have available a price check scanner for the Sealer of Weights and Measures to confirm the price of a stock keeping unit. A retail store failing to comply with this provision shall be assessed a penalty of (not to exceed) $300 per violation.

d. Failure to have the public scanner available will result in a (not to exceed) $300.00 fine. Any appeal of a decision by the Director of Weights and Measures must be filed in writing within five days following the inspection to the Intergovernmental Affairs Committee of the Otsego County Board of Representatives. All appeals shall clearly state why the appeal is being made and how the Director of Weights and Measures erred in his/her decision.

The Intergovernmental Affairs Committee shall review and refer final action to the County Board of Representatives on the appeal request. Failure to have a sign clearly indicating the location of the scanner shall also result in a fine of (not to exceed) $300 per violation.

e. The Otsego County Director of Weights and Measures must be notified of the installation of any new mainframe scanning equipment within seven days. Inspection approval is required before use after the seven day notification has expired. A retail store failing to comply with this provision may be assessed a penalty of (not to exceed) $1000 per establishment.
Section 5. Inspections and Investigations

a. In retail stores equipped with a "computer assisted checkout system," the Otsego County Director of Weights and Measures shall have the authority to conduct pricing inspections. Such inspections shall be conducted in each retail store falling under this law at least two times a year. The Director of Weights and Measure shall check for pricing accuracy, shelf tag placement accuracy, visibility on lower shelves, and shelf tag size and font accuracy. He/she shall also check for the existence of store maps, a price check scanner for customer use, signs identifying said scanner, (as per Sections 3 and 4 of this law) and the readability of customer sales’ receipts.

b. The Otsego County Director of Weights and Measures shall also have the authority to respond to consumer complaints of overcharges; poor placement, misplacement, or lack of shelf price tags; or improper sizing of shelf price tags and (print) font size on such as defined by this law. He/she shall also respond to complaints about lack of public use check-out type scanners and proper signage identifying location of those scanners.

Section 6. Enforcement and Penalties

a. Complaints about overcharging based on an inaccurate scan of an item shall be lodged with the Director of Weights and Measures. The Director of Weights and Measures shall notify the store of the complaint. The Director may fine the store (not to exceed) $100 for any proven complaints if not corrected. Inspections done on an items basis in response to a consumer complaint shall not be considered as pricing accuracy inspections or result in greater penalties provided, however, nothing herein shall prevent the Director of Weights and Measures from conducting such pricing accuracy inspection and imposing penalties as otherwise set forth herein.

b. The following penalties are established for pricing accuracy inspection violations, for lack of or inappropriately located shelf price tags or for shelf price tags which are too small or whose (print) font size is less than (smaller) than that required by this local law based on a sample of not less than 100 nor more than 200 stock keeping units. A violation exists when the programmed computer price exceeds the retail price, when shelf price tags are nonexistent or are inappropriately located or when the shelf price tag is too small or the (print) font on such is smaller in size than that required by this law. In such instance or instances the following percentages and penalties apply:
1. 98% or better pricing accuracy, shelf tag placement accuracy and
shelf tag size and font accuracy: the pricing, placement and/or shelf tag size
and (print) font size shall be corrected; no penalty.

2. 97% pricing accuracy, shelf tag placement accuracy and shelf tag size
and font accuracy: a penalty of (not to exceed) $300.00.

3. 96% pricing accuracy, shelf tag placement accuracy and shelf tag size
and font accuracy: a penalty of (not to exceed) $500.00.

4. 95% pricing accuracy, shelf tag placement accuracy and shelf tag size
and font accuracy: a penalty of (not to exceed) $750.00.

5. Below 95% pricing accuracy, shelf tag placement accuracy and shelf
tag size and font accuracy: a penalty of (not to exceed) $1000.

c. If a retail store fails to achieve a pricing accuracy, shelf tag placement
accuracy or shelf tag size and font size accuracy level of 95% on two
consecutive pricing accuracy inspections within one year, on a sample of not
less than 100 nor more than 200 stock keeping units, a penalty of (not to
exceed) $2000.00 will be assessed.

d. In addition to or in lieu of penalties, the Director of Weights and Measures
of the County of Otsego may maintain an action or proceeding in a court of
competent jurisdiction to compel compliance with this local law.

e. Any public act in moving price tags or returning items to the wrong
location shall not be a violation if corrected promptly at time of inspection.

**Section 7. Construction**

This local law is intended to provide additional protection to consumers and shall be in
addition to any other federal, state and/or local law or regulation applicable to the facts and
shall not affect nor be construed to lessen the requirements of same. This local law shall
be liberally construed to facilitate its purpose.

**Section 8. Savings**

If any section, paragraph, subdivision or provision of this local law shall be invalid, such
invalidity shall apply only to the section, paragraph, subdivision or provision adjudged
invalid and the remainder of this law shall remain valid and in full force and effect.
Section 9. Effective Date

This local law shall take effect immediately upon filing thereof with the Secretary of State, State of New York. Three (3) months from the enactment date of this local law shall be provided to allow those required herein to purchase and install necessary equipment as set forth in this local law. Enforcement of all provisions herein shall take effect three (3) months from the effective date of enactment of this local law.

This Local Law is offered by the Intergovernmental Affairs Committee.
RESOLUTION NO. 252

RESOLUTION - ADOPTING A LOCAL LAW FOR THE YEAR 1997 (SHELF MARKING AND SCANNER ACCURACY LAW)

WINSOR, FRANZÉSE, BATEMAN, PURITZ

WHEREAS, there was duly presented to the Board of Representatives of the County of Otsego at a regular meeting duly held in the Meeting Room of the Board of Representatives in the Otsego County Office Building, Cooperstown, New York on November 6, 1996, a Local Law for the year 1996 entitled "Shelf Marking and Scanner Accuracy Law"; and

WHEREAS, a public hearing was duly held on the proposed Local Law at the Meeting Room for the Board of Representatives in the Otsego County Office Building, Cooperstown, New York on the 20th day of November, 1996 at 7:30 p.m., at which time all interested persons were heard; and

WHEREAS, there was duly presented to the Board of Representatives of the County of Otsego at a regular meeting duly held in the Meeting Room of the Board of Representatives in the Otsego County Office Building, Cooperstown, New York on December 30, 1996, amendments to a Local Law for the year 1996 entitled "Shelf Marking and Scanner Accuracy Law"; and

WHEREAS, a second public hearing was duly held on the amended proposed Local Law at the Meeting Room for the Board of Representatives in the Otsego County Office Building, Cooperstown, New York on the 15th day of January, 1977 at 7:30 p.m., at which time all interested persons were heard; now, therefore, be it
RESOLVED, that a local law of the County of Otsego for the year 1997, as above set forth, be and the same is hereby adopted.

STATE OF NEW YORK:
COUNTY OF OTSEGO:

I, Laura A. Child, Clerk of the Board of Representatives of Otsego County, New York, DO HEREBY CERTIFY that I have compared the foregoing copy of resolution with the original resolution on file in my office and that the same is a true and complete copy thereof as duly adopted by said Board of Representatives while in session on the 15th day of January, 1997.

WITNESS my hand and the official seal of this Board of Representatives of Otsego County, New York, this 16th day of January, 1997.

(SEAL)

Laura A. Child
Clerk, Board of Representatives
Otsego County, New York