

LOCAL LAW 6-17  
COUNTY OF CHAUTAUQUA

A LOCAL LAW AMENDING LOCAL LAW 6-03 REGARDING ITEM PRICING AND  
SCANNER ACCURACY IN THE COUNTY OF CHAUTAUQUA

BE IT ENACTED, by the County Legislature of the County of Chautauqua, as follows:

**Section 1. Purpose of Amendments.**

Pursuant to Local Law 6-03 of the County of Chautauqua regarding item pricing and scanner accuracy, the Chautauqua County Department of Weights and Measures monitors unit pricing in stores to ensure that customers are not overcharged for items offered for sale. The item pricing law currently allows for a waiver from individual item pricing if a store passes two scanner accuracy price inspections of a minimum of one hundred stock-keeping items (SKIs) each. In 2003, such waivers were issued to fifteen stores, but the number has risen today to nearly one hundred stores and continues to increase. Due to today's advanced store computer systems, it is extremely unlikely that any store applying for an item pricing waiver will fail a scanner accuracy inspection – thus making a second such inspection of the store redundant and unnecessary. Amending the County's item pricing law to allow for one inspection instead of two will free up time for Department of Weights and Measures staff to attend to other tasks which may bring in additional revenue. Lastly, New York State has removed its requirement that stores make available an in-store price check scanner to customers, and it is appropriate that the County likewise amend its local law to remove the requirement.

**Section 2. Amendments.**

Section 10 of Local Law 6-03 of the County of Chautauqua is hereby amended as follows:

Section 10. Waiver From Item Pricing.

- 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 Section 3 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 applicant shall be subject to a non-refundable processing fee to cover the cost of conducting scanner accuracy inspections as provide in subsection b of this section. The Director shall determine the processing fee and may revise it from time to time to reflect said cost, but in no case shall said fee exceed one thousand seven hundred and fifty dollars (\$1,750.00) per application.
- b. Waiver applications and the required fee must be received at the Bureau of Weights and Measures, 1 North Erie Street, Courthouse, Mayville, New York 14757 before a temporary waiver can be granted. Waivers to item pricing are in effect for a period of twelve (12) months from date of receipt of processing fee and application.

Waivers are to be renewed annually, with the processing fee and inspection required for each annual renewal application.

- c. Upon receipt of an application and fee as provided in subsection a of this section, the Director shall cause to be conducted a scanner accuracy inspection of the store for which application has been submitted. This inspection shall be conducted in the manner prescribed in section eight (8) of this local law, excepting, however, that a minimum of one hundred (100) SKIs shall be checked at each inspection. In the event any violations are detected, penalties shall be assessed as provided in Section 9 of this local law. If the number of SKIs found to be in violation does not exceed two (2) percent of all SKIs inspected, the Director shall grant to this applicant a one (1) year revocable waiver from item pricing requirements. Any store with a current waiver shall be exempt from the requirements of Section 3 of this local law.
- d. In the event that total violations in excess of two (2) percent are discovered in the inspection provided for in subsection c or d of this section, the Director shall not grant a waiver to the applicant. Such store must promptly reapply for a waiver and pay the required fee of two hundred fifty dollars (\$250.00) to the director within five (5) business days after being notified of the failure, provided, however, that the fee shall be waived for reapplications made on or before December 31, 2018. Stores that do not reapply must be in compliance with all requirements of section three within sixty (60) days from date of failure.
- e. In the event that the Director is unable to conduct inspections pursuant to subsection c of this section within thirty (30) days of receipt of a complete waiver application and proper processing fee, or upon other good cause, 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.
- f. 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 not charge any customer a price for any SKI which exceeds the item, shelf, sale, or advertised price of that SKI, whichever is least.
  - ii. The store shall cause to be posted in conspicuous location(s), accessible by all consumers and approved by the Director, signs explaining the right of consumers consistent with the waiver as set forth in section eleven (11) of this local law. The Director will specify the content, size, and numbers of these sign(s) by regulation. The store is also required to post the temporary or annual waiver in the area designated for handling price discrepancies.
  - iii. The store shall make payment to consumers who have been overcharged as provided in Section 11 of this local law. Each store is required to

designate at least one (1) individual who is authorized to issue these payments during all of the store's operating hours.

- iv. The store shall correct all pricing errors identified by consumers at store level within three (3) hours and, if applicable, at their firm, partnership, corporation, or association within twenty-four (24) hours.

**Section 3. Effective Date.**

This local law shall take effect upon filing with the Secretary of State.

Emailed to Legislators: 5/12/17

Adopted by Legislature: 5/24/17

Public Hearing by County Executive: 6/8/17

Adopted as LL 6-17

R/C Vote: 18 Yes; 1 Absent

Date State Filed: 6/12/17

Sponsor: Legislator Robert Scudder