



Legislation Text

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Int. No. 436-A

By Council Members Espinal, Barron, Chin, Eugene, Koo, Koslowitz, Rodriguez and Ulrich

A Local Law to amend the administrative code of the city of New York, in relation to authorizing a cure period for certain item pricing violations

Be it enacted by the Council as follows:

Section 1. Subdivision f of section 20-708.1 of the administrative code of the city of New York, as added by local law number 84 for the year 1991, paragraph 2 as amended by local law number 70 for the year 2005, is amended to read as follows:

f. Enforcement, penalties. 1. Upon the request of an inspector, the retail store representative shall afford the inspector access to the test mode of the checkout system in use at that retail store or to a comparable function of such system and to the retail price information contained in a price look-up function. No more than one inspection shall be conducted in any twenty-four hour period.

2. In addition to the enforcement powers prescribed in sections 20-703 and 20-704 of this code, the commissioner may, upon due notice, hold hearings to determine whether violations of the provisions of this section have occurred. Such notice shall contain a concise statement of the facts constituting the alleged violation and shall set forth the date, time and place of the hearing. Upon a finding of a violation of the provisions of this section, the commissioner shall be authorized to impose a civil penalty as follows:

(a) [upon a first inspection] upon inspection, up to [twenty-five dollars]\$25 for the first [twenty]20 violations and up to [fifty dollars]\$50 for [the twenty-first and]each successive[violations] violation, total violations not to exceed [two thousand dollars]\$2,000, except that a retail store shall not be subject to the civil penalty described above for a first-time violation or first-time violations of subdivision b of this section or any

rule promulgated thereunder if such retail store proves to the satisfaction of the department, within 30 days of the issuance of the notice of violation or notices of violation and prior to the commencement of an adjudication of such notice or notices, that the violation or violations have been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation or violations have been cured shall be offered as part of any settlement offer made by the department to a retail store that has received a notice of violation or notices of violation for a first-time violation or first-time violations of subdivision b of this section or any rule promulgated thereunder. The department shall permit such proof to be submitted electronically or in person. A retail store may seek review, in the department, of the determination that proof of a cure was not submitted within 15 days of receiving written notification of such determination.

(b) upon a second or subsequent inspection within [a two week period]60 days of a violation, up to [fifty dollars]\$50 for the first [twenty]20 [continued] violations, and up to [one hundred dollars]\$100 for [the twenty-first and]each successive [continued violations]violation, total violations issued not to exceed [eight thousand dollars]\$8,000.

3. Each failure to comply with subdivision b of this section with respect to any one stock keeping unit shall constitute a separate violation, provided, however, that no violation shall be found where less than five stock keeping items of a particular stock keeping unit lack clearly readable item prices. Following an initial inspection, each inspection that finds a continuing violation with respect to a particular stock keeping unit cited within the previous fourteen days shall constitute a separate continued violation.

§ 2. This local law takes effect immediately.