



## Legislation Text

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Int. No. 1145

By Council Members Espinal, Koo, Powers, Levine, Cohen, Cornegy, Grodenchik, Reynoso and Chin

A Local Law to amend the administrative code of the city of New York, in relation to creating an exception to the item pricing requirement for retail stores with scanners available for consumer use

Be it enacted by the Council as follows:

Section 1. Subdivisions a and b of section 20-708.1 of the administrative code of the city of New York, as added by local law number 84 of the year 1991, are amended to read as follows:

a. Definitions. The following terms shall have the following meanings for the purpose of this section:

1. "Stock keeping unit", known in the industry as "SKU", 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:

(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 tissues, toilet tissues, paper towelling and any disposable wrapping or container for the storage, handling, serving, or disposal of food;

(c) Detergents, soaps and other cleansing agents; and

(d) Non-prescription drugs, feminine hygiene products and health and beauty aids.

2. "Stock keeping item" shall mean each individual item of a stock keeping unit offered for sale. This shall include two or more pieces packaged for sale together.

3. "Retail store" shall mean a store engaged in 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. A retail store shall not include any store which:

(a) Has as its only full-time employee the owner thereof, or the parent, spouse, domestic partner or child of the owner, and in addition thereto not more than two full-time employees; or

(b) Had annual gross sales of stock keeping items in the previous calendar year of less than two 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 of stock keeping items in the previous calendar year of two million dollars or more; or

(c) Engages primarily in the sale of food for consumption on the premises or in a specialty trade which the commissioner determines, by rule, would be inappropriate for item pricing.

4. "Item price" shall mean the tag, stamp or mark affixed to a stock keeping item which sets forth, in arabic numerals, the retail price thereof.

5. "Advertised price" shall mean the price of a stock keeping unit which a retail store has caused to be disseminated by means of promotional methods such as an in-store sign, or newspaper, circular, television or radio advertising.

6. "Shelf price" shall mean the tag or sign placed at each point of display of a stock keeping unit, which clearly sets forth the retail price of the stock keeping items within that stock keeping unit.

7. "Computer-assisted checkout system" shall mean any electronic device, computer system or machine which indicates 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.

8. "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 stock keeping unit by the retail store or by way of the checkout operator's consultation of a file maintained at the point of sale.

9. "Inspector" shall mean the commissioner or his or her designee.

10. "Price scanner" shall mean a laser scanning or other computer assisted price checking mechanism used in conjunction with scanner codes.

b. Item pricing required. 1. Except as provided in subdivision c of this section, every person, firm, partnership, corporation or association which sells, offers for sale or exposes for sale in a retail store, a stock keeping unit, shall disclose to the consumer the item price of each stock keeping item, by causing the item price to be conspicuously, clearly and plainly marked, stamped, tagged or affixed thereto.

2. Retail store exception. A retail store is not required to comply with the item pricing requirement as provided in this subdivision where the retail store has the following:

(a) Clearly marked and functioning price scanners for consumer use;

(b) A sufficient number of price scanners, as determined by the commissioner, in proportion to the retail store size; and

(c) Clearly marked items capable of being scanned by a price scanner.

3. Nothing in paragraph 2 of this subdivision exempts retail stores from complying with the shelf labeling requirement of section 197-b of the agriculture and markets law.

§ 2. This local law takes effect 120 days after it becomes law, except that the commissioner of consumer affairs shall take such measures as are necessary for its implementation, including the promulgation of rules, before such date.