

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
~~City~~ of ERIE
~~Town~~
~~Village~~

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
DEC 9 1991

Local Law No. 5 of the year 19 91

A local law in relation to item pricing in retail food establishments
(Insert Title)

Be it enacted by the LEGISLATURE of the
(Name of Legislative Body)

County
~~City~~ of ERIE
~~Town~~ as follows:
~~Village~~

Section 1. Item pricing required.

Every person, firm, partnership, corporation or association which sells, offers for sale or exposes for sale at retail stock keeping units as defined in section two of this local law shall disclose to the consumer the item price of such stock keeping units, except as provided in section three 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 thereof, or the parent, spouse or child of the owner, or in addition thereto, not more than two full-time employees; or

b. had annual gross sales in the previous calendar year of less than three million dollars, unless the food

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 the previous calendar year of three million dollars or more; or

c. engages primarily in the sale of food for consumption on the premises.

Section 2. Stock keeping unit; stock keeping item.

a. "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 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;

(ii) napkins, facial tissues, toilet tissues, foil wrapping, plastic wrapping, paper toweling, disposable plates;

(iii) detergents, soaps and other cleansing agents; and

(iv) non-prescription drugs, female hygiene products and health and beauty aids.

b. "Stock keeping item" shall mean each item of a stock keeping unit offered for sale.

Section 3. Certain items exempted.

The following stock keeping units need not be item priced as provided in section one of this local law:

- a. identical items within a multi-item package that is properly price marked;
- b. milk;
- c. stock keeping units which are under three cubic inches in size, weigh less than three ounces, and are priced under fifty cents;
- d. eggs;
- e. unpackaged bulk or fresh produce;
- f. items sold through a vending machine;
- g. food sold for consumption on the premises;
- h. snack foods such as cake, gum, candies, chips and nuts offered for sale in single packages weighing five ounces or less; and
- i. cigarettes, cigars, tobacco and tobacco products;

Section 4. Violation and penalties.

a. Any store found in violation of this local law shall be subject to the following penalties: for the first

violation in any twelve month period the store shall pay a penalty of twenty-five dollars for each of the first four violations; fifty dollars for each of the next twelve violations; and seventy-five dollars for each of any additional violations. For a second or subsequent violation in any twelve month period, the above penalties shall be doubled.

For the purpose of this local law, failure to have a clearly readable price indicated on twelve identical items of the same stock keeping unit shall be considered a violation; except, however, that no penalty shall be imposed if more than ninety-five percent of the stock keeping items in each SKU at an individual point of sale contain clearly readable item prices.

b. Each additional group of twelve identical units not item priced or improperly priced shall constitute a violation.

c. Each group of less than twelve identical units not item priced or improperly priced shall constitute a violation if such a group is displayed alone.

d. Each day a violation is continued shall constitute a separate violation.

Section 5. Pricing accuracy.

No retail store shall charge a 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 a store

with a laser scanning or other computer-assisted checkout system, the enforcing agent shall be permitted to compare the item price on any stock keeping item sold in the store, not to exceed five hundred stock keeping items at any one inspection, with the programmed computer price. The store shall provide such access to the computer as is necessary for the enforcing agent to make the determination. In the event that the programmed computer price exceeds the lowest price a store is permitted to charge under this section, the store will be subject to the following penalties: for a violation of the provisions of this section, a penalty in the amount of fifty dollars per violation shall be imposed for the first two percent of stock keeping items compared rounded up 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 a second or subsequent violation in a twelve month period, the above penalties shall be doubled.

Section 6. Enforcement.

The provisions of this section and the regulations promulgated hereunder, shall be enforced by the Erie County sealer of weights and measures.

Section 7. Rules and regulations.

The sealer of weights and measures may promulgate such rules and regulations necessary to effectuate the purpose of this section.

Section 8. Effective date.

This local law shall be effective immediately.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

~~1. (Final adoption by local legislative body only.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, in accordance with the applicable provisions of law.~~

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 1991 of the (County)(City)(Town)(Village) of ERIE was duly passed by the COUNTY LEGISLATURE on October 17 1991, and was (approved)(not disapproved)(repassed after disapproval) by the ERIE COUNTY EXECUTIVE (Elective Chief Executive Officer*) and was deemed duly adopted on November 16 1991, in accordance with the applicable provisions of law.

~~3. (Final adoption by referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.~~

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.~~

This Executive Officer means or includes the chief executive officer of a county elected as a board or, if there be none, the chairman of the county legislative body, the mayor of a city, or the president of a town where such officer or person holds the power to approve or veto local laws.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____ pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2, above.

[Handwritten Signature]

Clerk of the County legislative body, City, Town or Village Clerk
or office designated by local legislative body

(Seal)

Date: DECEMBER 4, 1991

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF _____ ERIE _____

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

[Handwritten Signature]
Signature

ERIE COUNTY ATTORNEY

Title
County
City of _____ ERIE _____
Town
Village

Date: December 4, 1991