

City of Philadelphia



(Bill No. 050790)

AN ORDINANCE

Amending Chapter 9-1800 of the Philadelphia Code entitled “Use of Electronic Scanners For Customer Checkout” to extend the requirements for licensing to include all electronic scanners which are used for sale transactions to the public, and to increase the penalty for violations of this chapter; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

Section 1. Chapter 9-1800 of the Philadelphia Code is amended to read as follows:

§9-1801. Definitions.

* * *

(2) Item. A class of product offered for sale, each of the same brand name, quantity of contents, retail price and variety, except that “item” shall not include [non-food items,] food items intended to be consumed on or about the retail premises, items which are sold through vending machines, produce, packages under 3 cubic inches in size, dairy products, eggs, gum or candy bars.

* * *

(5) *Retail Mercantile Establishment.* Any place of business where non-food items are offered for sale to the public.

[(5)] (6) Scanner Overcharge Ratio. For each survey conducted pursuant to subsection [9-1702(3)] 9-1802(3), the higher of the following two (2) ratios: (a) the ratio of the number of items for which the electronic scanner overcharged to the number of items for which the scanner undercharged; and (b) the ratio of the total dollar amount which the scanner overcharged for all overcharged items to the total dollar amount which the scanner undercharged for all undercharged items.

§9-1802. Use of Electronic Scanners.

(1) No retail food *or mercantile* establishment shall use an electronic scanner or similar automated device to ascertain the price of an item presented for checkout unless the establishment has obtained a license from the Department. Application for such licenses shall be made on forms supplied by the Department. Licenses shall be issued for a license year to be determined by the Department, and may be renewed for

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similar one-year periods. No license shall be issued or renewed until the retail food establishment has paid an annual license issuance or renewal fee of five hundred twenty-five (\$525) dollars for retail food establishments that use six (6) or more electronic scanners or similar automated devices, and two hundred fifty (\$250) dollars for retail food establishments that use one (1) or more but less than six (6) electronic scanners or similar automated scanners. *The license fee for a retail mercantile establishment (other than a retail food establishment) that uses six (6) or more electronic scanners or similar automated devices shall be one hundred sixty (\$160) dollars, and eighty (\$80) for an establishment that uses one (1) or more but less than six(6) electronic scanners or similar automated devices for customer checkout. The Department shall promulgate as necessary regulations regarding the issuance, revocation and renewal of licenses.*

(2) As a condition of holding the license required by subsection 9-1802(1), a retail food establishment shall comply with the following:

* * *

(d) [the] retail food establishments must adopt and adhere to a policy that provides that if a retail customer purchases a[n] *food* item and the checkout scanning system registers a higher price than that displayed on the item itself or on a shelf tag, then the customer shall receive one of that *food* item free of charge. A plain language statement of such policy shall be displayed at each cash register on a card at least three inches by five inches in size, and shall be posted in at least sixteen (16) point type at the store office, the customer service area, and/or main entrance to store. Also, whenever such scanner error occurs, and if the customer so requests, a form shall be executed which shows the customer's name, the store's name and address, the brand name and quantity of the *food* item, the shelf tag (or marked) price of the *food* item, the price as recorded by the scanner, the amount of the excess charge, and the name, title and signature of the store employee executing the form. Such forms shall be produced by each retail food establishment in the form to be established by the Department, shall be consecutively numbered, and shall be executed in triplicate, with one (1) copy given to the customer and one (1) copy sent to the Department within one (1) week of the date the form is executed, which copies shall be made available by the Department for public inspection;

* * *

§9-1803. Violations and Penalties.

(1) Each day a violation continues shall constitute a separate violation.

(2) The failure to properly display the retail price as required by subsection 9-1802(2) shall constitute a separate violation for each such item.

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(3) [The penalty for violation of the provisions of subsection 9-1802(1), or any of the standards set forth in subsection 9-1802(2), or of subsection 9-1802(3), shall be a fine not to exceed one hundred (\$100) dollars per violation, provided that the total fine for all violations that occur in any ten (10) day period with respect to a particular item shall not exceed two hundred fifty (\$250) dollars for each such item.] *Violations of subsection 9-1802(1), or any of the standards set forth in subsection 9-1802(2), or of subsection 9-1802(3), shall be “Class III” offenses and shall be subject to the fines set forth in subsection 1-109(3) of The Philadelphia Code.*

Section 2. This Ordinance shall take effect six (6) months after enactment.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 8, 2006. The Bill was Signed by the Mayor on July 5, 2006.



Patricia Rafferty
Chief Clerk of the City Council