

## New York City Department of Consumer and Worker Protection

### Notice of Adoption

Notice of Adoption to add and amend rules to implement Local Law 129 of 2021 (“LL 129”). LL 129 creates an exception to the item pricing requirements for retail stores that provide price scanners available for customer use. These rules provide guidance on the required number of, and adequate locations for, price scanners.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of Consumer and Worker Protection by sections 1043 and 2203(f) of the New York City Charter and sections 20-104(b) and 20-708.1(c)(15) of Title 20 of the Administrative Code of the City of New York, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Department amends chapters 5 and 6 of Title 6 of the Rules of the City of New York.

This rule was proposed and published on March 31, 2022. A public hearing was held on May 2, 2022. The Department of Consumer and Worker Protection (“DCWP” or “Department”) received comments from the public. A second version of this rule was published on June 23, 2022, and a second hearing was held on July 25, 2022. DCWP again received comments from the public.

### Statement of Basis and Purpose of Rule

The Department is adding and amending rules to implement LL 129. These amendments require that, to meet the exemption to item pricing created by LL 129, a retail store must have a price scanner within 30 feet of every item or post a sign prominently and conspicuously informing customers of where a price scanner is located. A retail store would also need a number of price scanners for consumer use based on the number of checkout stations in the store, as outlined in the chart, although no more than 5 price scanners for consumer use would be required. Finally, these amendments also add an entry to the truth in pricing penalty schedule for the new rules, under which price scanners fall.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

### Rule Amendment

Section 1. Subchapter B of Chapter 5 of Title 6 of the Rules of the City of New York is amended by adding a new Section 5-116 to read as follows:

#### **§ 5-116 Requirements for Price Scanners.**

(a) A retail store that seeks to rely on the exemption set forth in § 20-708.1(c)(15) of the Administrative Code from the item pricing requirement set forth in § 20-708.1(b) of the Administrative Code must provide price scanners for consumer use in accordance with this section.

(b) A price scanner for consumer use must be located within 30 feet of any item sought to be exempted from item pricing in accordance with this section unless the requirements of subdivision c of this section are met.

(c) If a price scanner for consumer use is located more than 30 feet from an item sought to be exempted from item pricing in accordance with this section, a prominent and conspicuous sign must be posted within view of such item stating: “A Price Scanner for Customer Use to Check Prices is Located (location of price scanner).”

(d) To comply with the requirements of this section, a retail store must have, at minimum, the number of price scanners set forth below, based on the number of checkout stations in such store. In no event does a retail store need more than 5 price scanners.

<u>Number of Checkout Stations</u>	<u>Number of Price Scanners</u>
<u>1-3</u>	<u>1</u>
<u>4-5</u>	<u>2</u>
<u>6-7</u>	<u>3</u>
<u>8-9</u>	<u>4</u>
<u>10 or more</u>	<u>5</u>

§ 2. Section 6-48 of Subchapter B of Chapter 6 of Title 6 of the Rules of the City of New York is amended to read as follows:

**§ 6-48 Truth in Pricing Law.**

All citations are to Title 20 of the Administrative Code of the City of New York or Title 6 of the Rules of the City of New York.

Unless otherwise specified, the penalties set forth for each section of law or rule shall also apply to all subdivisions, paragraphs, subparagraphs, clauses, items, or any other provision contained therein. Each subdivision, paragraph, subparagraph, clause, item, or other provision charged in the Notice of Violation shall constitute a separate violation of the law or rule.

[For the fine amounts marked by a single asterisk, if the respondent timely submits the appropriate proof of having cured a first-time violation, the respondent will not be subject to a civil penalty, pursuant to Local Law 5 of 2017.]

Unless otherwise specified by law, a second or third or subsequent violation means a violation by the same respondent, whether by pleading guilty, being found guilty in a decision, or entering into a settlement agreement for violating the same provision of law or rule, within two years of the prior violation(s).

<b>Citation</b>	<b>Violation Description</b>	<b>First Violation</b>	<b>First Default</b>	<b>Second Violation</b>	<b>Second Default</b>	<b>Third and Subsequent Violation</b>	<b>Third and Subsequent Default</b>
Admin Code § 20-708	Failure to display total selling price by tag or sign	\$50	\$50	\$175	\$175	\$250	\$250
Admin Code § 20-708.1(b)	Improper item pricing	\$18 (for each of the first 20 violations)[*]	[\$500*]\$25 (for each of the first 20 violations)	\$45 (for each of the first 20 violations within 60 days)	[\$1,000] \$50 (for each of the first 20 violations [(within 60 days)	\$50 (for each of the first 20 violations within 60 days)	[\$1,000] \$50 (for each of the first 20 violations [(within 60 days)
Admin Code § 20-708.1(d)	Improper scanner accuracy	\$260	\$350	\$500	\$500	\$500	\$500

Admin Code § 20-708.1(e)	Improper price accuracy	\$18 (for each of the first 20 violations)	<del>[\$500]</del> <u>\$25 (for each of the first 20 violations)</u>	\$45 (for each of the first 20 violations within 60 days)	<del>[\$1,000]</del> <u>\$50 for each of the first 20 violations (within 60 days)</u>	\$50 (for each of the first 20 violations within 60 days)	<del>[\$1,000]</del> <u>\$50 for each of the first 20 violations (within 60 days)</u>
Admin Code § 20-709	Failure to display price per measure	\$50	\$50	\$175	\$175	\$250	\$250
6 RCNY § 5-113	Failure to meet the requirements of calculation and display price per measure	\$50	\$50	\$175	\$175	\$250	\$250
6 RCNY § 5-115	Failure to meet guidelines on multiple pricing	\$50	\$50	\$175	\$175	\$250	\$250
6 RCNY § 5-116	Failure to meet requirements for price scanners	<u>\$18 (for each of the first 20)</u>	<u>\$25 (for each of the first 20 violations)</u>	<u>\$45 (for each of the first 20 violations within 60 days)</u>	<u>\$50 (for each of the first 20 violations within 60 days)</u>	<u>\$50 (for each of the first 20 within 60 days)</u>	<u>\$50 (for each of the first 20 violations within 60 days)</u>