

# MASSACHUSETTS

## Code of Massachusetts Regulations

### Chapter 94

#### § 184B. Definitions applicable to section 184B to 184E

For purposes of this section and sections one hundred and eighty-four C to one hundred and eighty-four E, inclusive, the following words shall have the following meanings:

“Automatic checkout system”, a cash register, computer, terminal, or other device capable of interpreting the universal product code, or any other code which is on an item offered for sale used to determine the price of the item being purchased, regardless of whether the code entry is accomplished manually, or automatically by a machine.

“Coded”, any symbol, letter, number or combination thereof other than the price itself which is stored in and interpretable by the seller’s automatic checkout system.

“Correct price”, the advertised price in any circular, newspaper, magazine, television or radio commercial, or in any other medium, or any published correction thereof. If an item is not advertised, the correct price shall be the lowest price indicated on any store sign for the item, but not if such item is rung up at a lower price. If no sign is displayed, the correct price shall be the price of the item on its displayed unit price label, but not if such item is rung up at a lower price. If no unit price label is displayed, the correct price shall be the price rung up by the food store’s or food department’s automatic checkout system. If the foregoing provisions for establishing the correct price are not determinative in a particular situation, the correct price shall be the price on the seller’s current price list.

“Display”, two or more units of an item located together. A display shall be deemed to be checked after the correct price is ascertained and one or more units are removed from the display and examined for accurate price markings.

“End-aisle display”, a display of a specific item consisting of at least fifty units, not including units in closed cartons or otherwise inaccessible to the consumer which is located in a freestanding display or at the end of, or adjacent to, a shelved tier of groceries or other items.

“Food”, anything edible.

“Food department”, any seller other than a food store with any grocery item section, area, or display and which sells ten or more different food items for consumption off the seller’s premises at least in part to individuals for their own personal, family, or household use; provided, however, that any food section which is within a larger business and is the functional equivalent of a supermarket with its own separate checkout, may be deemed a food store by the director of standards.

“Food store”, any store, shop, supermarket, grocer, convenience store, warehouse-type seller, club, outlet, or other seller, whose primary business is selling either food for consumption off the seller’s premises alone or in combination with grocery items or other non-durable items typically found in a supermarket, and such items are sold at least in part to individuals for their own personal, family, or household use.

“Grocery items”, any food, pet food or supply, soap, household cleaner of any type, laundry product, light bulbs, or disposable paper or plastic products.

“Gross error”, a price which is less than half the price stated by the seller as the actual selling price, and which was never intended as the selling price at any time during the previous thirty day period.

“Item”, a specific and distinct product, good, or commodity. One item is differentiated from another by having a different universal product code for the items so coded; and for items not so coded, the item has any distinguishing characteristics compare to another item.

“Represented price”, any price represented to a consumer as the actual selling price including the price on any sign, price tag, unit price label, advertisement, item, or cash register display.

“Rung up”, the price on a cash register or terminal sales slip or display which indicates the price the consumer will be charged for each item; provided, however, that such price is not the result of a keypunching error by the cashier or inspector.

“Unit”, a single piece of an item, such as one can, package bag, or multi-pack.

Added by St. 1986, c. G31 \ 3. Amended by St. 1987, c. 15 \ 4.

### **\ 184C. Price marking of food and grocery items**

Except as hereinafter provided, every item in a food store and every grocery item in a food department offered for sale, whether edible or not, shall have each unit individually marked with the correct selling price. All prices represented to the consumer for the same item shall be consistent with each other and to the price rung up and charged for the item. The seller shall be responsible for the completeness and accuracy of all price marking.

The following classes of items are exempt from the price marking requirement of this section; provided, however, that the cashier can readily discern the price of the exempted item, that no exempted item is marked with an incorrect price, that the exempted item is on a current price list maintained by the seller as hereinafter provided and that a clear and conspicuous separate sign, or a single sign in the case of similar items all priced the same, larger than the seller’s regular unit price label with the price no smaller than one inch high is place at the point of display of each exempted item containing the name of the item, the correct price, and, if appropriate, the size or other distinguishing information:

- (1) unpackaged: produce, meat, fish, poultry, delicatessen, bakery items, and any other unpackaged items offered from a bulk display, except that any such item weighted or wrapped to order by the food store or food department but paid for at a place other than at the point of such weighing or wrapping shall have the correct price marked on the item;
- (2) gallons and half gallons of milk;
- (3) eggs;
- (4) cigarettes, cigars, tobacco and tobacco products;
- (5) individual units within a multi-unit package if the package is correctly price marked;
- (6) snack foods such as cakes, gum, candy, chips, and nuts if offered for sale individually, weigh less than three ounces, cost seventy-five cents or less, and are located at the checkout area;
- (7) individual greeting cards; provided, however, that such cards are marked with a price code readily understandable by the consumer.
- (8) individual glass jars of baby food of the same brand and price where vegetable or fruit is the predominant ingredient other than water, but not including juices; provided, however, that if offered for sale by a seller with an automatic checkout system they are coded, or if offered by a seller without such system, they are on an easily referenced price list at each cash register;
- (9) soft drink bottles and cans; provided, however, that items are fully and accurately price marked at their regular shelf location and the seller maintains a list of such items as required by section one hundred and eighty-four D;
- (10) not more than sixty items that are located in end-aisle displays; provided, however, that if offered for sale by a seller with an automatic checkout system they are coded, or if offered by a seller without such system they are on an easily reference price list

at each cash register; and provided, further, that such items are fully and accurately price marked at their regular shelf location, and the seller maintains a list of such items as required by section one hundred and eighty-four D. Said sixty item limit shall be reduced by seventy-five percent in the case of a food department. For the purpose of determining whether a seller has exceeded said sixty item limit, units of an item which differ only by color, flavor, or scent shall be considered the same item if they are otherwise identical in all respects including price, size, and brand, unless in a particular case the director of standards determines that such units are different items.

Added by St. 1986, c. G34, § 3. Amended by St. 1987, c. 15, § 4; St. 1990, c. 367, §§ 1, 2; St. 1991, c. 121.

#### **§ 184D Food stores or departments utilizing automatic checkout systems; exempt items; violations**

In addition to the exemptions in section one hundred and eighty-four C, food stores or food departments which, for a majority of the items offered for sale, utilize an automatic checkout system which is at least ninety-five per cent accurate as determined by the director of standards may also exempt up to a maximum of four hundred additional items provided, however, that they are coded and subject to the following limitations and qualifications and those in section one hundred and eighty-four C:

- (1) The exact number of additional exempt items allowed by this section shall be based on the number of operable cash registers or terminals located at the seller's main checkout location, but not to exceed four hundred. Cash registers at the seller's courtesy desk, or otherwise away from the main checkout location, if the seller maintains such main checkout location, shall not be included in the calculation, unless approved by the director of standards.

Sellers with one operable cash register shall be allowed to exempt twenty additional items of their own choosing. Sellers with two, three to four, or five to six operable cash registers shall be allowed to exempt fifty, one hundred or two hundred additional items respectively. Sellers with seven or more operable cash registers may exempt up to four hundred additional items. In the case of a food department, the number obtained in the above calculation shall be reduced by seventy-five per cent. In no case shall the number of exemptions permitted by this exception exceed four and one-half per cent of the number of packaged grocery items carried by the seller.

- (2) Any food store or food department permitted to exempt additional items under this section shall establish at each store location a dated written list of the items it has chosen to exempt. The list shall include a readily understandable description of each item and the code number understood by the seller's automatic checkout system. The list shall be maintained so that any item may be referenced easily. Deletions may be made from the list at any time, but no additions, substitutions, or changes may be made to the list except twice a year in January and July starting with July nineteen hundred and eighty-seven. The exemption permitted by this section shall not apply to any item not on that list and shall not apply unless such list has been established and is available upon request at the store to any consumer or any representative authorized by the director of standards. The director of standards may require the periodic filing of such list with his office. No seller may choose to exempt items required to be price marked by other laws or regulations governing specific types of items, or may exempt more than two hundred items in any one department except in the dry grocery department.
- (3) All food stores and food departments shall maintain a current and accurate price list of all items exempted under the provisions of section one hundred and eighty-four C and this section. Such list may be maintained in any reasonable manner, including by an automatic checkout system or merged with nonexempt items; provided, however, that the information contained therein can be referenced easily by the person requesting it. All food stores and food departments shall also maintain a separate, current, written or

printed list of the items it chooses to exempt under the provisions applying to end-aisle displays. Such lists shall be made available upon request to any representative authorized by the director of standards, and the price for any item contained therein shall be provided to any person upon request.

- (4) Violations of the provisions of section one hundred and eighty-four B to one hundred and eighty four E, inclusive, for which fines shall be levied shall include: having no price marked on any unit that is required to be priced and is not exempted; having an incorrect price on any unit; having an incorrect or missing sign; or overcharging on any unit. A unit shall be deemed to be overcharged once it is rung up at a price higher than any represented price.

There shall be a tolerance for error on all fineable violations discovered during an in-store inspection except overcharging. In the case of a display checked for unmarked and incorrectly marked units, the tolerance shall be such that the one display of an item most in violation out of each twenty displays checked shall be excluded in computing that fine. Said tolerance shall not be less than one display per inspection. In the case of a violation for incorrect or missing signs, the tolerance for error shall be calculated such that the number of sign violations actually found among those checked shall be reduced by ten per cent, but by not less than one violation, and such violations omitted shall be excluded in computing any fine. Each unit or sign in violation shall constitute a separate violation; provided, however, that no item may be subject to violations for both overcharging and incorrect price markings. Multiple units from the same display of an item which are found in violation of the same infraction shall be considered one fineable violation. An inspector may inspect any or all units in any display of any item. The seller shall allow the inspector access to the seller's automatic checkout system.

Added by St.1980, c. 634, \ 3. Amended by St. 1987, c. 15, \ 4.

#### **184E. Inspections; fines; price accuracy guarantee; regulations.**

Any representative authorized by the director of standards may conduct inspections of any item and shall issue notices of violation to any food store or food department for any violation of this section and sections one hundred and eight four B to one hundred and eighty-four D, inclusive; provided, however, that no food store or food department shall be inspected more than once a week. The fine shall be one hundred dollars for each violation, up to a maximum fine of twenty-five hundred dollars per inspection. The seller shall immediately correct all violations including those where a tolerance was granted.

In the case of any verified consumer complaint, fines for overcharging shall be limited to one violation per item. A fine shall be issued without allowance for tolerance upon verification of any consumer complaint alleging overcharging or improper price marking except for those units where the seller gave the consumer the units tendered for purchase free under a qualified price accuracy guarantee.

The director of standards may require sellers to disclose a consumer's rights under the provisions of this section and sections one hundred and eight-four B to one hundred and eighty-four D, inclusive.

Any food store or food department which maintains and complies with the terms of a qualified price accuracy guarantee in the form prescribed below, and posts an explanation of such price accuracy guarantee at each cash register or terminal, shall have all per violation fines reduced by fifty per cent. If the director of standards determines that a food store or food department is either intentionally or through gross negligence violating any provisions of this section and sections one hundred and eight-four B to one hundred and eighty-four D, inclusive, all the store's exemptions shall be rescinded for a period of twelve months, and the matter shall be referred to the attorney general for action against such food store or food department. Uncontested fines levied under said sections shall be paid within thirty days of issuance of the notice of violation. Any aggrieved seller may appeal any unjustified fines to the director of standards if such appeal is filed within thirty days of issuance of the notice of violation. If the grounds for appeal are determined to be without reasonable basis, the fine shall be doubled.

A qualified price accuracy guarantee at a minimum is one which immediately gives any consumer one unit free of every different item which was either (a) rung up at a price higher than the lowest price marked on the unit, and for unmarked units, the price on any sign or unit price label; or (b) rung up at a price higher than the price advertised for the item. Sellers may elect option (a) or (b), or both, but option (b) may only be elected alone if the seller advertises at least fifty packaged grocery sale items each week not including meat and produce. To take advantage of the guarantee, the consumer need only point out the over-ring to the cashier.

All food stores and food departments shall provide an itemized sales slip to all consumers indicating at a minimum the price charged for each item or unit. No food store or food department shall refuse to sell any unit tendered for purchase at the lowest price represented to the consumer by the seller or supplier; provided, however, that the seller shall have no obligation to sell such unit at the lowest represented price if it is the result of a gross error, if it is based on the price marked on another unit of the same item and the tendered unit is marked only with a higher price, or if the price tag, label, or sign shows evidence of obvious physical tampering, or if it is given away free under a price accuracy guarantee.

This section and sections one hundred and eight four B to one hundred and eighty-four D, inclusive, shall only apply to food stores and to grocery items in food departments. Said sections shall not diminish any obligations under other laws or regulations regarding item pricing for sellers other than food stores, or for items other than grocery items in food departments. The director of standards shall not issue a fine pursuant to this section and said sections one hundred and eight-four B to one hundred and eighty-four D, inclusive, and section fifty-six D of chapter ninety-eight for the same violation. Where a seller is also subject to the item pricing regulations or guidelines of another agency, in cases where a specified number of items is allowed to be exempted under two similar exceptions to the requirement of item pricing, such similar provisions shall not be additive. Compliance with another agency's regulations or guidelines which differ from said sections or any regulations issued hereunder by the director of standards shall not be a defense to a violation of said section or any regulations promulgated hereunder.

The director of standards may promulgate regulations or issue guidelines for the implementation or interpretation of said sections.

Failure to comply with any of the provisions of said sections shall constitute a violation and an unfair or deceptive act or practice under the provisions of chapter ninety-three A.

Added by St. 1986, c. 634, § 3. Amended by St. 1987, c. 15, § 4.

**§ 115A. Unit pricing of packaged commodities; retail sale; regulations; enforcement; penalties; report**

The director of standards may adopt regulations establishing lists of packaged commodities necessary for personal, family, or household use to be offered for sale at retail and which may not be sold in retail stores unless there is posted in a conspicuous place at or near the point of sale the price per pound, pint, or other unit or measurement of contents and the total sales price. Such regulations shall exempt any packaged commodity whose net weight is one whole unit or two whole units and which has the retail price plainly marked thereon. No packaged commodity shall be included in these regulations which must be individually marked with the cost per unit of weight, liquid, or dry measure, as provided in section one hundred and eighty-one of chapter ninety-four. Said director of standards may adopt such further regulations as are necessary to carry out the intent of this section, provided that a public hearing shall be held relative to any packaged commodity proposed to be regulated. The director of standards and local sealers and deputy sealers of weights and measures in cities and towns shall enforce any regulation adopted pursuant to the authorization contained in this section. Whoever violates any provision of this section shall for the first offense be punished by a fine of not less than ten nor more than fifty dollars and for a subsequent offense by a fine of not less than twenty-five nor more than one hundred dollars.

Said director of standards shall annually report to the general court on or before the last Wednesday in January of each year relative to any action taken by it pursuant to this section in the preceding year.

The provisions of this section shall not apply to any retail establishment operated by a person as his sole place of business; provided, that said establishment has a sales volume of less than five million dollars per year.

Amended by St. 1986, c. 634, \1; St. 1987, c. 15, \1, 2; St. 1993, c. 495, \3.

## **202 CMR 5.00: UNIT PRICING REGULATIONS**

### **Section**

- 5.01: Definitions
- 5.02: Exemptions
- 5.03: Means of Disclosure
- 5.04: Price Per Measure
- 5.05: Packaged Commodities Regulated and Unit of Measure to be used
- 5.06: Extension of Time for Compliance
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#### 5.01 Definitions

Packaged Commodity means any food, drug, device, cosmetic and any other article, product or commodity of any kind or class which is customarily necessary or used for personal, family, or household use, and offered for sale at retail and which is listed in 202 CMR 5.05.

- (a) Unit Price means the price per measure
- (b) Item Price means the total sales price

For the purpose of enforcing 202 CMR 5.00:

1. Goods sold in case lots will be considered one whole unit.
2. Multi-Paks will be considered one whole unit, provided the items comprising the multi-pak are not sold individually.
3. Case lot and pallet displays-items contained therein sold individually. All items, unless exempted, must be marked with the retail price. For enforcement purposes, only those items in the layers of cases exposed for sale in the display, will have to be price marked.
  - (c) Retail Store means any retail outlet including wholesale clubs and membership warehouses that sells or offers for sale any packaged commodity that is listed in the Definitions section of 202 CMR 5.00 section 5.01 under Packaged Commodity

#### 5.02 Exemptions

Sellers at retail need not comply with the provisions of 202 CMR 5.00 as to the following packaged commodities:

- (1) Medicine sold by prescription only.
- (2) Beverages subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act.
- (3) Such packaged commodities which are required to be marked individually with the cost per unit of weight under the provisions of M.G.L. c.94 S,181.
- (4) Packaged commodities which are sold in packages containing one or two of the unit of measure prescribed in 202 CMR 5.00 and which have an item price plainly marked thereon: but only the particular packaged commodity in such units shall be exempt. All other items in excess of two multiples of the unit of measure must be unit priced.
- (5) Packaged commodities sold by any retail establishment operated by a person as his sole place of business shall be exempt from 202 CMR 5.00 if gross annual sales are less than one million dollars.

- (6) “Deal Items”, such as Cents Off, Bonus Packs, Percent Off, Half Price, or manufacturer “Pre-Priced” Items. If the same as or lower than regular selling price, provided the unit price is posted as required for “Non Deal” Items.

### 5.03 Means of Disclosure

All retail establishments subject to 202 CMR 5.00 shall disclose the unit price and item price to consumers in the following manner:

1. The Unit price label, stamp, or tag must consist of no more than two dominant segments.
  - (a) The left-hand segment of the label, stamp, or tag must be orange; the other part of the label must be primarily white;
2. Orange shall be defined for purposes of 202 CMR 5.00 as being measured inclusively between the wavelengths of 595 and 620 millimicrons (or between 3950 and 6200 angstroms) on a normal color spectrum. For purposes of everyday recognition and operation, only the following identifying numbers for orange, as found in the U.S. Government General Services Administration Federal Standards Publication (Color-card) #595a and change notice 3, revised January 2, 1968 will be considered in compliance with the above specifications: #22510, #12473, and #32246.
3. When a label at any time fails to fall within the color range specified in 202 CMR 5.03.2, even though it may be due to the fading of the color, said label shall not be considered in compliance with 202 CMR 5.00.
  - (a) The unit price label, stamp or tag must appear on the item itself or directly under the item on the shelf on which the item is displayed for items which are not specially displayed or stored. The Unit Price label must not in any way be obscured and must be visible at all times.
  - (b) For specially stored or displayed items such as frozen and cold storage commodities and goods which are marketed on end displays, the unit price label, stamp, or tag shall appear on the shelf or display space contiguous with the area where the item is displayed.
4. The orange segment of the label, stamp, or tag must be conspicuously visible to the customer carrying the following data and no other:
  - (a) The words “Unit Price” as a heading directly above the numerical unit price.
  - (b) The unit price expressed in the following manner
    - (1) \$X.XX per unit for all commodities whose unit price is \$1.00 or greater.
    - (2) XX.X ¯ per unit for all commodities whose unit price is less than \$1.00 but greater than ten cents.
    - (3) X.XX ¯ per unit for all commodities whose unit price is ten cents or less.
    - (4) ¯, Cents, cnts, if expressed in cents.
    - (5) \$, dollars, dols, dlrs., if expressed in dollars
  - (c) The applicable “ply” count or thickness for items such as paper products which are manufactured in numbers of folds showing such information.
5. The primarily white segment of the label, stamp, or tag must carry the following data:
  - (a) Item price.
  - (b) The description of the packaged commodity.
  - (c) The size of the commodity being sold.

Other stocking information may also be included thereon at the option of the retail establishment PROVIDED that said information does not in any way obscure, de-emphasize or confuse the unit price information.

6. The Unit Price of commodities regulated hereunder shall be displayed in type no smaller than that used for the item price, but in no event shall the unit price appear in size less than 3/8 inch unless approved by the Director of Standards.
  - (a) PROVIDED that when the retail establishment employs display material at or near the point of sale and the item price appears thereon in sizes larger than 3/8 inch, the unit price required hereunder must appear in a size no less than 3/8 inch or ¼ the size used for the item price, whichever is greater.
  - (b) PROVIDED FURTHER that the unit price shall be printed in bold solid figures which must be clear, conspicuous and legible.
  - (c) EXCEPTIONS the retail establishment shall not be required to comply with the provisions of 202 CMR 5.03 s.2 as to color and s.3 as to size of type, where the product or commodity carries an

item price and unit price on its package, and where the unit price appears thereon in a size no smaller than that used for the item price.

- (d) Electronic shelf displays which display unit price, item price and other required information simultaneously, when incorporated in an electronic price scanning system and have been approved for retail use by the Director.
- (e) When the display space used for the packaged commodity is inadequate to set forth separate unit and item price legends as required-hereunder, or where the retailer believes unit price information may be usefully conveyed to consumers by alternative method the required disclosures may be set forth on such legends as are required hereunder on display cards or other material used for the display of prices for such commodities. However, any such alternative method must be approved by the Director as specified in 202 CMR 5.06, prior to being displayed.

The display of the unit price in any event shall be conspicuously visible at all times and appear on an orange background. The size of type used for the unit price legend shall be no less than ¼ the size used for the retail price or 3/8 inch, whichever is greater.

#### 5.04 Price Per Measure

Unless otherwise specified in 202 CMR 5.05, the unit price shall be expressed as:

- (1) Price per pound for commodities whose net quantity is customarily expressed in units of pounds or
- (2) For purposes of price comparison all semi-viscous commodities of the same generic kind, if packaged in both terms of weight and fluid measure, shall be unit priced by the pound if packaged in terms of weight or by the pint if packaged in terms of fluid measure.
- (3) Price per pint, quart, or gallon for commodities whose net quantity is customarily expressed in units of pints, quarts, gallons, or fluid ounces, or a combination thereof.
- (4) Price per 100 feet or 100 square feet, as appropriate, for commodities whose net quantity is customarily expressed in units of feet, inches, square feet, or square yards.

#### 5.05 Packaged Commodities Regulated and Unit of Measure to be used

The following commodities shall be labeled in accordance with 202 CMR 5.05. Each commodity must be unit priced only in the unit of measure listed below, unless otherwise approved by the Director. In addition, the Director, upon written request of any multi-state retailer, may authorize a different unit of measure to be used throughout that retailer's multi-state distribution system.

#### Commodity

Aluminum, Plastic wraps, and  
Waxed papers

Baby foods

Baby formula concentrate

Baking mixes & supplies

Bottled and canned beverages

#### Unit of Measure

100 square feet

Quarts if sold by fluid measure  
Pounds if sold by weight

Quarts if liquid,  
Pounds if sold by weight  
Label must also have a statement of the  
total fluid volume concentrate will make  
(i.e.  
makes 128 fl.oz.)

Pounds

Gallons



Bread and Pastry products	Pounds
Candy in sizes greater than three ounces (3 oz.)	Pounds
All poultry, fish, and meat products including canned, fresh, or frozen.	Pounds
Cereals, dry, ready-to-eat	Pounds
Cocoa	Pounds
Coffee – Instant and ground	Pounds
Convenience dinners, “one pan” meals	Pounds
Cookies and crackers	Pounds
Dairy products	Gallons if sold by fluid measure Pounds if sold by weight
Cream, non-dairy coffee cream	Pounds if sold by weight Quarts if sold by fluid measure
Sour cream and yogurt	Pounds if sold by weight Quarts if sold by fluid measure
Deodorants, solid and liquid	Ounce
Detergent and soaps	Pounds if sold by weight Gallons if sold by fluid measure
Flour	Pounds

**Commodity**

Fresh vegetables and produce

**Unit of Measure**

May be sold by measure, weight or per each PROVIDED that the total measured quantity, item, price and unit price are clearly marked for every item. Individual items sold per each shall be exempt from 202 CMR 5.00

Frozen dairy products	Gallons if sold by fluid measure Pounds if sold by weight
Frozen foods except dairy products	Pounds
Fruits, vegetables – canned, jarred, or boxed	Pounds
Fruit juices	Gallons
Frozen or unfrozen juice	Pounds if sold by weight

concentrate	Quarts if sold by fluid measure
Grains and beans	Pounds
Hair conditioner and sprays	Pounds if sold by weight Quarts if sold by fluid measure
Household cleaners, waxes deodorizers, starches, and bleaches	Pounds if sold by weight Gallons if sold by fluid measure
Instant breakfast foods	Pounds if sold by weight Quarts if sold by fluid measure
Jellies, jams, preserves, and sandwich spreads	Pounds
Ketchup, mustards, sauces and condiments (including pickles and olives)	Pounds if sold by weight Pints if sold by fluid measure
Mouthwash	Quarts
Oleomargarine and butter	Pounds
Oils for cooking	Gallons
Pet food canned and dried	Pounds
Kitty Litter	Pounds
Plastic bags	100 count

**Commodity**

Powdered mixes

Salad dressing including mayonnaise  
and vinegar

Sanitary paper products, including 100 count  
but not limited to napkins, facial  
tissues, bathroom tissues, paper towels  
Seasonings and spices in sizes  
greater than 3 oz.

Shampoo

Shaving cream

Shortenings

Snack foods, including but not limited  
to potato chips pretzels, and nuts

**Unit of Measure**

Pounds

Quarts if sold by fluid measure  
Pounds if sold by weight

100 square feet

Pounds if sold by weight  
Pints if sold by fluid measure

Quarts if sold by fluid measure  
Pounds if sold by weight

Pounds

Pounds if sold by weight  
Gallons if sold by fluid measure

Pounds

Soups	Pounds if sold by weight Quarts if sold by fluid measure
Sugar	Pounds
Syrups	Quarts if sold by fluid measure Pounds if by weight
Tea	Pounds if sold loose per 100 units if sold as tea bags
Toothpaste	Pounds

#### 5.06 Extension of Time for Compliance

- (1) Any retail establishment that is unable to comply with 202 CMR 5.00 within the time set forth herein may apply to the Director of Standards for permission to extend such time for compliance for a period not to exceed 30 days. Such retail establishment shall set forth, in as much detail as possible, the reasons for its inability to comply. The Director of Standards may extend such period from time to time, upon such terms and conditions as he may deem reasonable.
- (2) Exemptions from compliance with the requirements of any of the provisions of 202 CMR 5.03 through 5.05 may be granted for cause by the Director of Standards upon the filing of a statement setting forth the reason for inability to comply with any of the requirements of 202 CMR 5.03 through 5.05. Any such exemption shall be granted by the Director of Standards for such period of time as he may deem reasonable.

#### 5.07 Responsibility for Compliance

In the event of a violation of 202 CMR 5.00 the manager, or individual in charge of such retail establishment and the individual or corporation employing such manager or individual in charge, where applicable, shall be deemed to be responsible for compliance by such retail establishment with the requirements of 202 CMR 5.00

#### 5.08 Determination of Label Acceptability

All unit price labels and alternative display methods as allowed for in 202 CMR 5.03 prior to their display in retail establishments, must be approved by the Director of Standards in order to insure accord with the stipulations laid out in 202 CMR 5.00. The Director of Standards will render a decision within four weeks of receipt of the label or alternative method of display. In reaching a decision, the Director of Standards shall take into consideration, but will be limited to, the prominence of the unit price segment of the label, the boldness of the figures which must be clearly and conspicuously printed and the overall design of the label.

#### 5.09 Severability Provision

If any section or portion of a section of 202 CMR 5.00, or the applicability thereof to any person or circumstances is held invalid by a court, the remainder of 202 CMR 5.00, or the applicability of such provision to other persons or circumstances, shall not be affected thereby.

#### 5.10 Effective Date

202 CMR 5.00 supersede all other Unit Pricing Regulations and shall be effective September 1, 1993

Regulatory Authority

202 CMR 5:00 M.G.L. c. 6, s 115A,