

## NEW JERSEY

### SUBCHAPTER 14. UNIT PRICING OF CONSUMER COMMODITIES IN RETAIL ESTABLISHMENTS

#### 13:45A-14.1 General provisions

These regulations implement the Unit Price Disclosure Act, P.L.1975, c.242 (N.J.S.A. 56:8-25) and provide for the disclosure of information necessary to enable consumers to compare easily and effectively the retail prices of certain consumer commodities regardless of package size or quantity.

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#### 13:45A-14.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Approved unit of measure” means the unit of weight, standard of measure or standard of count designated for each regulated consumer commodity in N.J.A.C. 13:45A-14.4.

“Consumer commodity” means any merchandise, wares, article, product, comestible or commodity of any kind of class produced, distributed, or offered for retail sale for consumption by individuals other than at the retail establishment, or for use by individuals for purposes of personal care or in the performance of services rendered within the household, and which is consumed or expended in the course of such use.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Person” means any natural person, partnership, corporation or other organization engaged in the sale, display or offering for sale of consumer commodities at retail establishment whose combined total floor area, exclusive of office, receiving and storage areas, dedicated to the sale of consumer commodities exceeds 4,000 square feet or whose combined annual gross receipts from the sale of consumer commodities in the preceding year exceeded \$2 million, regardless of the square footage involved.

“Regulated consumer commodity” means those consumer commodities listed in N.J.A.C. 13:45A-14.4.

“Retail establishment” means any place of business where consumer commodities are exposed or offered for sale at retail.

“Retail price” means the total retail price of a consumer commodity, excluding sales tax.

“Unit price” means the retail sales price of a consumer commodity expressed in terms of the approved unit of measure.

“Wash load” means seven pounds of laundry by dry weight.

#### 13:45A-14.3 Persons and operations exempted from complying with Unit Price Disclosure Act

(a) The following persons or entities shall be exempted from complying with this subchapter and the terms of the Unit Price Disclosure Act:

1. Any person owning and operating a single retail establishment with annual gross receipts from the sale of consumer commodities in the preceding year of not more than \$2 million.

2. Any person owning and operating a single establishment or a series of retail establishments each having a total floor space of 4,000 square feet or less regardless of the annual gross receipts in New Jersey from the sale of consumer commodities therein.

3. Any person owning and operating a retail establishment or series of retail establishments, wherein the combined annual gross receipts from the sale of food products, nonprescription drugs, personal care products and household service products is less than 30 percent of the total annual gross receipts of such retail establishment when calculated on an individual store basis or an aggregate basis combining all retail establishments, providing that the portion of that person's retail establishment selling consumer commodities regulated herein has either a total floor area of less than 4,000 square feet or annual gross receipts in New Jersey not exceeding \$2 million, or both.

4. Notwithstanding the provisions of (a)1, 2 and 3 above, any retail establishment, whether or not part of a series of retail establishments, which devotes less than five percent of its total floor area, exclusive of office, receiving and storage areas to the sale of consumer commodities and which derives less than five percent of its total gross receipt in New Jersey from the sale of consumer commodities.

13:45A-14.4 Regulated consumer commodities and their approved units of measure

(a) The following consumer commodities shall be considered regulated commodities. Wherever regulated commodities are exposed or offered for sale at retail, unless otherwise exempt from this subchapter, the unit price information required to be displayed shall be calculated on the basis hereinafter set forth. In each establishment, one approved unit of measure must be consistently used for the same commodity.

1. Dry units of measure shall be used for commodities sold according to net weight.
2. Liquid units of measure shall be used for commodities sold according to net weight, net contents or fluid ounces.

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3. Commodities not usually measured in dry or liquid units as stated in (a)1 and 2 above shall be sold in count, or square feet, whichever is appropriate and approved.

4. The same unit of measure shall be used for all sizes of the same commodity.

(b) The following consumer commodities shall be considered regulated consumer commodities with their approved unit of measure:

Commodity Approved Unit of Measure

1. Aluminum foils, wax and plastic wraps ..... 100 sq. ft.
2. Baby food ..... reconstituted ounce, pound, quart
3. Baking mixes and supplies, pancake mixes ..... pound
4. Bread and pastry products: prepackaged outside of seller's premises ..... pound
5. Bottle and canned beverages, carbonated and non-carbonated ..... quart
6. Butter and oleomargarine ..... pound
7. Candy (excluding 5 ounces or less) ..... pound
8. Canned poultry, fish and meat products ..... pound
9. Cocoa ..... pound
10. Coffee (instant and ground) ..... pound
11. Cereal ..... pound
12. Cheese ..... pound
13. Cold cuts; prepackaged meats and salads ..... pound
14. Cookies and crackers ..... pound

15. Condiments: ketchups, mustards, mayonnaise (including pickles, relishes, olives, etc.) ..	quart, pound
16. Deodorants, dry, spray, and roll-on .....	pound, pint
17. Detergents, soap, laundry products .....	quart, pound, per wash load
(dry bulk, liquid) .....	100 count
18. Flour .....	pound
19. Fruits and vegetables: jars, cans .....	pound
boxes (not fresh products) .....	pound
20. Grains and beans .....	pound
21. Hair conditioners, creme rinses, shampoos (not dyes) .....	pound, pint
22. Household cleaners, waxes, deodorizers .....	pound, quart
starches, bleaches .....	100 count
23. Instant breakfast food .....	pound
24. Jellies, jams, preserves .....	pound
25. Juices and juice drinks, fresh, canned .....	quart
26. Molasses .....	quart, pound
27. Mouthwash .....	quart
28. Non-alcoholic drink mixes .....	quart, pound
29. Oil (cooking) .....	quart
30. Peanut butter .....	pound
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31. Pet food and supplies (canned, dried, moist) limited to dog and cat food; kitty litter) .....	pound
32. Plastic and paper bags .....	100 count
33. Salad dressings .....	quart, pound
34. Salt .....	pound
35. Sanitary paper products including, but not limited to, napkins, facial tissues, paper towels, bathroom tissues .....	100 count
36. Sauces (tomato, spaghetti, meat) .....	quart, pound
37. Seasonings and spices, flavoring extracts, imitation flavorings .....	pint, pound
38. Shaving cream .....	pound
39. Snack foods .....	pound
40. Soups (canned, dried) .....	pound
41. Solid shortenings .....	pound
42. Spaghetti, macaroni, noodles and pasta .....	pound
43. Sugar .....	pound
44. Syrups .....	quart, pound
45. Tea .....	100 count, pound
46. Toothpaste .....	ounce, pound

13:45A-14.5 Exempt consumer commodities

(a) The following consumer commodities shall be deemed exempt consumer commodities and may be exposed or offered for sale at retail without complying with the provisions of this subchapter:

1. Medicines sold by prescription only;
2. Vitamins;
3. Beverages subject to or complying with packaging or labeling requirements imposed under the Federal Alcoholic Administration;
4. Consumer commodities required to be marked individually with the cost per unit of weight pursuant to N.J.A.C. 13:47K-4;
5. Any consumer commodity offered for sale at a net quantity equal to the approved unit of measure for such commodity, provided that the retail price of the commodity is plainly marked on the commodity, or shelf molding;
6. Any consumer commodity offered for sale in one size only, and not comparable in form to any other product;

7. Any consumer commodity co-mingled with other consumer commodities for purposes of a one-price sale;
8. Any consumer commodity packaged to include more than one food product (i.e. T.V. dinner or mixed vegetables);
9. Bakery products sold in a service department which are not prepacked outside of the seller's premises;
10. Snack foods, including, but not limited to, cakes, candy, nuts, gum, chips and pretzels sold in packages weighing five ounces or less;
11. Spices, flavor extracts, imitation flavoring and boullion cubes sold in packages of five ounces or less in weight or fluid ounces;
12. Ice cream, ice milk, frozen yogurt, frozen desserts;
13. Frozen foods.

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(b) Any and all consumer commodities not specifically included in those regulated consumer commodities set forth in N.J.A.C. 13:45A-14.4 shall be deemed to be exempt from the provisions of L.1975, c.242, section 3 as though specifically listed as an exempt consumer commodity under this section.

13:45A-14.6 Calculation of the numerical unit price of a regulated consumer commodity

- (a) The unit price shall be calculated to the nearest cent for all regulated consumer commodities when the retail price per approved unit of measure is \$1.00 or more.
- (b) The unit price shall be calculated to the nearest cent or the nearest one-tenth of one cent for all regulated consumer commodities when the retail price per approved unit of measure is less than \$1.00.
- (c) For the purpose of determining the nearest cent or one-tenth of one cent, any calculation of the price per unit resulting in \$0.05 cents or \$0.005 cents per unit shall be rounded up to the next higher cent or one-tenth of one cent. Any such calculation resulting in less than \$0.05 cents or \$0.005 cents per unit shall be rounded down to the next lower cent or one-tenth cent. For example:
  1. \$1.005 per unit shall be marked \$1.01 per unit;
  2. \$1.004 per unit shall be marked \$1.00 per unit;
  3. 50.05¢ per unit shall be marked 50.1¢ per unit;
  4. 50.04¢ per unit shall be marked 50.0¢ per unit;

(d) If the numerical unit price is \$1.00 or more, the unit price shall appear on the unit price label, sign, list or tag, expressed as dollars per unit. If the numerical unit price is less than \$1.00, the numerical unit price shall be expressed as cents per unit.

13:45A-14.7 Unit price labels approved for display

- (a) Whenever this subchapter requires that a unit price label be displayed in conjunction with the exposing or offering for sale at retail of a regulated consumer commodity, a sample format of the label shall be submitted to the director for approval prior to the display of the label.
- (b) In determining whether to approve the label, the Director shall be guided by the following standards:
  1. The shelf label shall be divided so as to create a left and right side; individual item labels may be divided vertically or horizontally into two portions. The amount of space devoted to the unit price and the retail price portion shall be equal. The size and conspicuousness of the numerals used to disclose the retail price shall be equal to or greater than that for the unit price. Where the retail price exceeds the unit price, the type face for the unit price shall not be less than 50 percent than that of the retail price.
  2. The left side or upper portion shall be known as the unit price side and shall contain the following information:
    - i. The term "unit price";
    - ii. The numerical unit price in bold figures;
    - iii. The approved unit of measure, including, if appropriate, the "ply" count or thickness of the regulated commodity.
  3. The right side or lower portion shall be known as the retail price side and shall contain the following information:

- i. The term “retail price,” “you pay” or some similar term;
  - ii. The numerical retail price;
  - iii. The quantity or size of the commodity being sold, for shelf labels only.
4. A description of the commodity being sold shall appear on the unit price shelf label.
  5. Additional stock or code information may appear on the unit price shelf label.
  6. All letters and numbers shall be in conspicuous, bold figures and shall be clear and legible. Handwritten labels shall be legibly printed.

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7. The overall design of the label shall convey all the information in a clear, readable and conspicuous fashion.

Any stock or code information shall not obscure or deemphasize the consumer information appearing on the unit price label.

#### 13:45A-14.8 Unit price signs and unit price lists

(a) Whenever this subchapter permits a person to display a sign or list in conjunction with the exposing or offering for sale at retail of a regulated consumer commodity, a sample format of the sign or list shall be submitted to the director for approval prior to the display of the sign or list.

(b) In determining whether to approve the sign or list, the director shall be guided by the following standards:

1. The sign or list shall be divided so as to create a left and right side.
2. The left side of a sign or list shall be known as the unit price side and shall contain the following information:
  - i. The term “unit price”;
  - ii. The numerical unit price;
  - iii. The approved unit of measure including if appropriate the “ply” count or thickness of the consumer commodity.
3. The right side shall be known as the retail price side and shall contain the following information:
  - i. The term “retail price” or “you pay” or similar term;
  - ii. The numerical retail price;
  - iii. The quantity or size of the consumer commodity expressed in terms of the approved unit of measure.
4. A description of the commodity to be sold shall appear on the sign or list.
5. Additional stock or code information may appear on the unit price sign or list.
6. All letters or numbers shall be in conspicuous figures and shall be clear and legible.
  - i. The list shall display the unit price and retail price in numbers of equal size.
  - ii. The sign shall display the unit price and retail price in equal size if in numbers of less than five inches.

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signs with numbers for the retail price larger than five inches, the unit price shall be no less than three inches

in size or one-half the retail price size, whichever is greater.

7. The overall design of the sign or label shall convey the consumer information in a clear, readable and conspicuous

fashion. Any stock or code information shall not obscure or deemphasize the consumer information.

#### 13:45A-14.9 Unit price tags

Whenever these regulations require a unit price tag to be attached directly to the consumer commodity, a sample format of the tag shall be submitted to the director for approval prior to the display of the tag. In reviewing submitted price tags, the director shall apply those standards set forth in N.J.A.C. 13:45A-14.7 governing the format for unit price labels.

#### 13:45A-14.10 Means of disclosing unit price information

(a) Whenever a regulated consumer commodity is exposed or offered for sale at retail, the unit price and retail price

shall be disclosed in the following manner:

1. If the commodity is displayed upon a shelf, the unit price label shall appear directly below the commodity, or, alternatively, a unit price tag shall be attached to the commodity. If the use of a unit price label or unit price tag is impossible or impractical, a unit price sign or list may be used provided such sign or list is conspicuously located at or near the commodity.

2. If the commodity is displayed in a special fashion such as in an end display, portable rack or large bin, the unit price tag shall be attached to the commodity, or, alternatively, a unit price sign or list shall be conspicuously placed at or near the point where the commodity is displayed. Nothing in this section should be construed to prohibit the use of hand-letter unit price signs on special displays so long as such signs contain the disclosures required in (a)1 above.

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3. If a commodity is refrigerated, the unit price label shall be affixed to the case, to a shelf edge, or a unit price label shall be attached to the commodity. In the event such attachments are not possible, then a unit price sign or list may be used if the sign or list is displayed in proximity to the articles for sale. Where such proximate display is impossible, a unit price list for such articles must be kept available and a sign posted at the site of the articles for sale as to such availability.

13:45A-14.11 Placement of unit price information on consumer commodities by nonretailers

Nothing in this subchapter shall prohibit a manufacturer, supplier or wholesaler from affixing to a consumer commodity the unit price information required by these regulations.

13:45A-14.12 Extension of time to comply with these regulations

On timely written application made within 90 days after final adoption of this subchapter, the director may grant additional time in which to comply with the regulations, providing good cause is shown for such an extension. In no event, however, shall an extension exceed 60 days.

13:45A-14.13 Nonintentional technical errors

For the purpose of enforcement of this subchapter, “nonintentional technical errors” shall mean inaccuracies in the unit

pricing information reflected upon a stamp, tag, label, sign or list where such defects have resulted from a malfunction of a printing press, electronic data processing equipment or other mechanical equipment used to produce such stamps, tags, labels, signs or lists, or from the mistake of a computer programmer or machine operator, where such malfunction or mistake was not within the knowledge or control of the owner or operator or management personnel of the store and where such owner or operator or management personnel could not with reasonable diligence have detected and corrected such errors.

13:45A-14.14 Waiver of unit price requirements

(a) Prior to the remodeling of a store or resetting of the shelves taking place, a retail establishment may request from the director, or his designee, permission to vary from the unit price procedure. Verbal permission to vary is acceptable provided a written confirmation follows same. A retail establishment, which has failed to obtain such permission, shall be in violation of this subchapter if it does not comply with the requirements herein while remodeling a store or resetting shelves.

(b) No waiver from compliance with this subchapter shall be granted to a retail establishment for the restocking of shelves.

13:45A-14.15 Penalties

Any violation of this subchapter shall be deemed a violation of the Consumer Fraud Act, N.J.S.A. 56:8-2, subjecting a violator to those sanctions established pursuant to said Act.

SUBCHAPTER 15. DISCLOSURE OF REFUND POLICY IN RETAIL ESTABLISHMENT

### 13:45A-15.1 Definitions

The following words and terms when used in this subchapter shall have the following meanings, unless the context

indicates otherwise. "Merchandise" shall include any objects, wares, goods, commodities, or any other tangible item offered, directly or indirectly, to the public for sale.

"Proof of purchase" means a receipt, bill, credit card slip, or any other form of evidence which constitutes proof of purchase.

"Retail establishment" means any place of business where merchandise is exposed or offered for sale at retail to members of the consuming public.

### 13:45A-15.2 Unlawful practices

- (a) Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., failure to comply with the following shall be deemed unlawful thereunder:

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1. Every retail establishment shall conspicuously post its refund policy as to all merchandise exposed or offered

for sale at retail to members of the consuming public in the following manner:

- i. On a sign attached to the merchandise itself; or
- ii. On a sign affixed to each cash register or point of sale; or
- iii. On a sign so situated as to be clearly visible to the buyer from the cash register; or
- iv. On a sign posted at each store entrance used by members of the consuming public.

2. The sign required by (a)1 above to be posted in every retail establishment shall conspicuously disclose any and

all material conditions of, or qualifications to, its refund policy, including, without limitation, whether a refund

will be given:

- i. On merchandise which has been advertised as "sale" merchandise or "as is";
- ii. On merchandise for which no proof of purchase exists;
- iii. At any time, or only up to a specified time after the date of purchase;
- iv. In cash, as a credit to the account on which the purchase was debited, or as a store credit only.

### 13:45A-15.3 Exemption

(a) The provisions of N.J.A.C. 13:45A-15.2 shall not apply to any retail establishment that has a policy of, for a period not less than 20 days after the date of purchase, providing a cash refund for a cash purchase, or providing a cash refund or issuing a credit for a credit purchase, which credit is applied to the account on which the purchase was debited, in connection with the return of any of its unused and undamaged merchandise.

### 13:45A-15.4 Remedy

In addition to any other remedy provided by the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., any retail establishment which violates any provision of N.J.A.C. 13:45A-15.2 shall, for a period of up to 20 days after the date of purchase, provide any buyer who returns unused and undamaged merchandise with the option of either a cash refund, a credit to the account on which the purchase was debited, or a store credit.

### N.J.S.A. 56:8-2.5. Sale, attempt to sell or offer for sale of merchandise without tag or label with selling price

It shall be an unlawful practice for any person to sell, attempt to sell or offer for sale any merchandise at retail unless the total selling price of such merchandise is plainly marked by a stamp, tag, label or sign either affixed to the merchandise or located at the point where the merchandise is offered for sale.