

NEW HAMPSHIRE

TITLE XL AGRICULTURE, HORTICULTURE AND ANIMAL HUSBANDRY

CHAPTER 438 STANDARDS FOR WEIGHTS AND MEASURES

Section 438:26-a

438:26-a Grocery Stores; Prices. –

I. In this section, the term "grocery store" means any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premise consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishments which handle only prepackaged, non-potentially hazardous foods; roadside markets that offer only fresh fruits and fresh vegetables for sale; food service establishments; or food beverage vending machines.

II. Any person who offers items for sale in a grocery store shall mark clearly upon the package of each item sold in packaged form the price of such item, or shall place under the shelf containing the item a uniform shelf tag, or a larger sign indicating item price.

III. A uniform shelf tag shall include:

(a) The regular price of each individual item. The price numbers shall be at least 7/16 of an inch in height;

(b) The unit price; and

(c) The name of the item or a description of the item.

IV. The following items shall not require individual prices:

(a) Cold beverages.

(b) Snack items packaged in individual sizes and designed for immediate consumption.

V. The commissioner shall adopt rules, pursuant to RSA 541-A, regarding:

(a) The pricing of items by grocery stores under this section.

(b) The definition of snack items excepted from the requirements of this section under subparagraph IV(b).

Source. 1990, 120:1, eff. Jan. 1, 1991.

**TITLE XL
AGRICULTURE, HORTICULTURE AND
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**CHAPTER 438
STANDARDS FOR WEIGHTS AND MEASURES**

Section 438:22

438:22 Declarations of Unit Price on Random Packages. – In addition to the declarations required by RSA 438:21, any commodity in package form, the package being one of a lot containing random weights, measures, or counts of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure, or count.

Source. 1985, 72:1, eff. July 1, 1985.

**TITLE XL
AGRICULTURE, HORTICULTURE AND
ANIMAL HUSBANDRY**

**CHAPTER 438
STANDARDS FOR WEIGHTS AND MEASURES**

Section 438:40

438:40 Offenses and Penalties. –

I. It shall be unlawful for any person to:

(a) Use or have in possession for the purpose of using for any commercial purpose specified in RSA 438:10, sell, offer, or expose for sale or hire, or have in possession for the purpose of selling or hiring, an incorrect weight or measure or any device or instrument used to or calculated to falsify any weight or measure.

(b) Use or have in possession for the purpose of current use for any commercial purpose specified in RSA 438:10, a weight or measure that does not bear a seal or mark such as is specified in RSA 438:14, unless such weight or measure has been exempted from testing by the provisions of RSA 438:10 or by a rule of the commissioner adopted under the authority of RSA

438:8 or unless the device has been replaced in service as provided by a rule of the commissioner adopted under the authority of RSA 438:8.

(c) Dispose of any rejected or condemned weight or measure in a manner contrary to law or rule.

(d) Remove from any weight or measure, contrary to law or rule, any tag, seal, or mark placed thereon by the appropriate authority.

(e) Sell, or offer or expose for sale, less than the quantity represented of any commodity, thing, or service.

(f) Take more than the quantity he represents of any commodity, thing, or service, when, as buyer, he furnishes the weight or measure by means of which the amount of the commodity, thing, or service is determined.

(g) Keep for the purpose of sale, advertise, or offer or expose for sale, or sell any commodity, thing, or service in a condition or manner contrary to law or rule.

(h) Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from some position which may reasonably be assumed by a customer.

(i) Use commercially any device which has not been licensed in accordance with RSA 438:7, VI.

(j) Violate any provision of RSA 438 or of the rules adopted under the provisions of RSA 438.

II. Any person who, by himself or by his servant or agent, recklessly performs any act prohibited, other than by rule, under this chapter shall be guilty of a misdemeanor. Any individual, acting as the servant or agent of another person, who knowingly performs any act prohibited, other than by rule, under this chapter shall be guilty of a misdemeanor. A subsequent violation of this chapter perpetrated by anyone other than a natural person shall be a felony.

III. Any person who, by himself or by his servant or agent, or as the servant or agent of another person violates any rule adopted under RSA 438:8 shall be guilty of a violation.

IV. In addition to any other penalty imposed under this chapter, any person who violates any provision of RSA 438, or any rule or order of the commissioner, may be subject to the imposition of an administrative fine levied by the commissioner, not to exceed \$1,000 for each violation.

Source. 1985, 72:1. 1989, 324:15, 16. 1990, 217:1. 1994, 100:7, eff. July 10, 1994.