COMMONWEALTH OF MASSACHUSETTS
DIVISION OF STANDARDS
One Ashburton Place, Room 1115
Boston, Ma. 02108
Tel: 617-727-3480

OFFICE USE ONLY

ISSUE DATE:_____

WAIVER #_____
FORM WA-1/13

Application for Consumer Scanning Waiver 2019

This application must be filled out as indicated, duly signed, and returned to this office. If the applicant, has no outstanding fines under M.G.L. Chapter 94 sections 184B to 184D, inclusive, or section 56D of chapter 98a waiver will be issued. **Mail to theDivision of Standards:One Ashburton Place, Room 1115, Boston, MA 02108**

CORPORATE INFORMATION:

COMPANY NAME _____ DBA _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

CONTACT PERSON _____ TELEPHONE _____

EMAIL _____

STORE INFORMATION:

STORE NAME _____ STORE ID _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

CONTACT PERSON _____ TELEPHONE _____

EMAIL _____

Chapter 94 Section 184E. (a) A food store or food department seeking to convert from an individual item pricing system to a consumer price scanner system shallseek a waiver from the division.The waiver shall be granted by the division provided that the food store or food department has no outstanding fines under sections 184B to 184D, inclusive, or section 56D of chapter 98. Please enclose a check made payable to the Commonwealth of Mass. The waiver fee is per store location and is based on the square feet of product display space. The fees are: $250 fee if the retail space is less than 15,000 square feet, $500 fee if the retail space is greater than or equal to 15,000 square feet, but less than 30,000 square feet or a $1,000 fee if the retail space is more than 30,000 square feet.

WAIVER FEE SCHEDULE

RETAIL SQ. FT.	FEE AMOUNT
☐ 30, 000 sq.ft. or Over	$1000.
☐ 15,000 sq. ft.< 30,000 sq.ft.	$500.
☐ Under 15,000 sq. ft.	$250.

Please Check Appropriate Box

EXPIRES: June 30, 2019

Pursuant to Massachusetts General Law Chapter 62C, Section 49A, I certify under the penalties of perjury that I, to the best of my knowledge and belief, have filed all state tax returns and paid all state taxes required under law.

I/WE have requested a consumer scanner waiver as subject to Chapter 94 Sections 184 B-E and Regulations as promulgated by the Division of Standards Deputy Director. We have no outstanding fines under Chapter 94 sections 184B to 184D, inclusive, or section 56D of chapter 98. Make the check payable to ;

COMMONWEALTHOF MASSACHUSETTS in the amount of $ _____. I/WE have read the requirements and completed information on the reverse side of this application.

Signature of Representative _____ Date _____

"NO JOB LOSS" AFFIDAVIT

Chapter 94 Section 184E. (b) states that the division shall require each applicant to complete a "no job loss" affidavit which shall include, but not be limited to, the number of people employed at the time of the application process and the establishment of a complaint process, to ensure that full and part-time employees do not suffer any wage or benefit loss due to the transfer. After the filing of the affidavit, if there is any resulting job loss at the store due to the implementation of the waiver not attributed to seasonal employment or verifiable economic pressures, the store shall be required to use an individual item pricing system for 1 year under sections 184B to 184E, inclusive, or other applicable laws or regulations promulgated hereunder and be subject to a fine of not more than $5,000.

(f) Any food store or food department with more than 5,000 square feet of total space converting from an individual item pricing system to a consumer price scanner pricing system shall within 3 months of such conversion hire or maintain not less than 2 employees whose responsibilities shall include the maintenance of all consumer price scanners within the food store or food department.

Read above and complete the following:

Current Number of Full Time _____ and Part-Time _____ Employees.

Our Human Resource department has established policies, for an employee complaint process, to ensure that full time and part-time employees do not suffer any wage or benefit loss due to the transfer. (circle) YES NO

CONSUMER SCANNER REQUIREMENTS

(c) A food store or food department using a consumer price scanner system shall be subject to inspection by the deputy director for compliance with this section. The deputy director shall not cause any food store or food department using a consumer price scanner system to be inspected more than once per calendar month. If, within the previous 30 days, there is a verified pattern of consumer complaints or, upon regular inspection, the food store or food department is not in compliance with this section, the division may inspect a food store or food department using a consumer scanner pricing system once every week until the food store or food department is found to be in compliance with this section.

(d) Each food store or food department with more than 5,000 square feet of retail space that employs a consumer price scanner system shall have at least 1 fully operational consumer price scanner for every 5,000 square feet of retail space or part thereof. The location of a consumer price scanner shall be disclosed by 1 clear and conspicuous sign at eye-level and 1 clear and conspicuous sign above eye level. Consumer price scanners shall be equally spaced throughout the store in fixed locations. A food store or food department with more than 5,000 square feet shall have at least 1 fully operational consumer price scanner capable of producing an individual item pricing tag. At all such scanner locations, the food store or food department shall provide the consumer with a means by which such pricing tag may be affixed or appended to the item or its packaging, such as tape or an adhesive price tag. The deputy director may, by regulation, authorize new technologies in lieu of required consumer price scanners which further the intent of this section, including, but not limited to, hand held or shopping cart attached scanners which retain in memory and itemize all scanned items. Such technologies may reduce the required number of consumer scanners by no more than 50 per cent.

(e) Consumer price scanners shall be deemed fully operational if: (1) the consumer price scanner clearly and conspicuously identifies and displays the item by name or other distinguishing characteristics; and (2) the consumer price scanner displays the item's correct price when the item is scanned and, in the case of a food store or food department that uses loyalty cards or otherwise maintains a dual pricing system, the consumer price scanner displays both the loyalty card price and the non-card price if they differ. A sign containing contact information for the division shall be posted by each consumer price scanner so that consumers may report broken consumer price scanners. Such consumer price scanners shall be in compliance with the Americans with Disabilities Act Accessibility Guidelines, 28 CFR Part 36, Appendix A and the architectural access board regulations 521 CMR 1.00, et. seq. Any violation of this subsection shall be considered in determining a consumer price scanner's pass or fail designation as defined in subsection (i).(g) An inspector may choose to test a food store or food department's consumer price scanner system for accuracy. The inspector may choose the sample size for accuracy tests provided that the size of sample is not less than 50 items and not more than 200 items. Any scanning that yields an incorrect price that causes a food store or food department's consumer price scanner accuracy rating to fall below 98 per cent shall constitute a separate violation. This subsection shall not be used to impact a scanner's pass or fail grade as defined in subsection (i) but the cumulative violations of this subsection in any particular store or department shall be used in contributing toward the maximum fine imposed under the same subsection.

RETAIL SQUARE FOOTAGE SPACE _____ NUMBER OF CONSUMER SCANNERS REQUIRED PRINTING _____ NON-PRINTING _____ TOTAL _____ . ___FURTHER ,WE ARE REQUESTING A REDUCTION IN THE NUMBER OF AISLE SCANNERS BASED ON THE NUMBER OF HAND HELD SCANNERS AVAILABLE _____, WHICH IS ONE FOR EVERY 1,000 SQUARE OF FLOOR SPACE.

Signed:_____ Date_____

Title: Company Name

CONSUMER PRICE SCANNER WAIVER INSTRUCTION SHEET

A APPLICATION MUST BE SUBMITTED FOR EACH STORE LOCATION SEEKING A WAIVER

This application must be filled out as indicated, duly signed, and returned to this office. If the applicant, has no outstanding fines under M.G.L. Chapter 94 sections 184B to 184D, inclusive, or section 56D of chapter 98 a waiver may be issued provided all of the other requirements have been met. **Mail to the Division of Standards: One Ashburton Place, Room 1115, Boston, MA 02108**

INSTRUCTIONS

These instructions include requirements for filing your waiver application. Please ensure that you follow all the instructions below or it could result in a delay of processing you application and issuance of the waiver.

FRONT OF APPLICATION

1. Corporate Information must be completed.

2. Store Information is for the location requesting the waiver and must be completed.

3. Check fee box

WAIVER FEE SCHEDULE (EXPIRES JUNE 30, 2018)

CLASS	RETAIL SQ.FT.	FEE
A	30,000 sq. ft. or OVER	$1,000.00
B	15,000 sq. ft. but less than 30,000 sq. ft.	$500.00
C	Under 15,000 sq. ft.	$250.00

Review the statement and indicate amount paid.

4. Sign front of application under the penalties of perjury.

Number of Consumer Price Scanners Required

Reported Square Footage of Store	# Printing Scanners Required with at least one located near checkout	# Non-Print Scanners Required	Total # Scanners required in the Food Store or Dept.
less than 4,999	0	0	0
5,000	1	0	1
5,001 < 10,000	1	1	2
10,001 < 15,000	1	2	3
15,001 < 20,000	1	3	4
20,001 < 25,000	2	3	5
25,001 < 30,000	2	4	6
30,001 < 35,000	2	5	7
35,001 < 40,000	2	6	8
40,001 < 45,000	2	7	9
45,001 < 50,000	2	8	10
50,001 < 55,000	2	9	11
55,001 < 60,000	2	10	12
60,001 < 65,000	2	11	13
65,001 < 70,000	2	12	14
70,001 < 75,000	2	13	15
75,001 < 80,000	2	14	16
80,001 < 85,000	2	15	17
85,001 < 90,000	2	16	18
95,001 < 100,000	2	17	19

Class of Stores

Reported Square Footage of Store	Class	Fee Amount
30,000 or greater	A	$1,000.00
15,000 to 29,999	B	$500.00
14,999 or less	C	$250.00

BACK PAGE APPLICATION

5. Read "NO JOB LOSS" AFFIDAVIT

6. Enter current number of full-time and part-time employees in space provided

7. Circle response regarding Human Resource policies, for an employee complaint process, to ensure that full time and part-time employees do not suffer any wage or benefit loss due to the transfer.

8. **IMPORTANT: A COPY OF THE HUMAN RESOURCES POLICY MUST BE INCLUDED WITH THE APPLICATION.**

9. Read CONSUMER SCANNER REQUIREMENTS.

10. Enter the square footage of the retail space in the space provided.

11. Enter the number of consumer scanners required in the space provided. One scanner is required for every 5,000 square feet of food and grocery display space including the fully operational scanners capable of printing an individual price tag as follows

    A food store or food department with more than 5,000 square feet but less than 20,000 square feet shall have 1 fully operational consumer price scanner capable of producing an individual item pricing tag, located at the front of the food store or food department. A food store or food department with more than 20,000 square feet shall have 2 fully operational consumer price scanners capable of producing an individual item pricing tag, with at least 1 located at the front of the food store or food department.;

12. **IMPORTANT: A SCHEMATIC MAP SHOWING THE LOCATION OF THE CONSUMER SCANNERS THROUGHOUT THE FOOD STORE OR FOOD DEPARTMENT MUST BE INCLUDED WITH THIS APPLICATION. THE LOCATION OF THE SCANNER(S) THAT HAVE THE CAPABLILTY TO PRINT A RECIEPT THAT CAN BE ATTACHED TO THE ITEM MUST BE CLEARLY INDICATED ON THE STORE FLOOR SCHEMATIC.**

STORE RESPONSIBILITES AND MAINTAINING OF CONSUMER SCANNERS

CMR 202 7:05 SCANNER SPECIFICATIONS

Each food store or food department with more than 5,000 square feet of retail grocery item sales space that utilizes a consumer price scanner system shall have at least one fully operational consumer price scanner for every 5,000 square feet of retail grocery item sales space or part thereof;

The location of a consumer price scanner shall be disclosed by one clear and conspicuous price sign at eye level, and one clear and conspicuous sign above eye level;

Consumer price scanners shall be equally spaced throughout the store in fixed locations;
All consumer price scanners shall comply with the Americans with Disabilities Act Accessibility Guidelines, 28 CFR Part 36, Appendix A, and the Architectural Access Board regulations, 521 CMR 1.00, *et seq.*;

A sign shall be posted at each consumer price scanner containing contact information for the Division of Standards, so that consumers may report non-operating or otherwise defective consumer price scanners to the Division;

Inoperable scanners shall be repaired or replaced as soon as is practicable, but in no event shall scanners go unrepaired or replaced for longer than 72 hours;

A food store or food department with more than 5,000 square feet but less than 20,000 square feet shall have 1 fully operational consumer price scanner capable of producing an individual item pricing tag, located at the front of the food store or food department. A food store or food department with more than 20,000 square feet shall have 2 fully operational consumer price scanners capable of producing an individual item pricing tag, with at least 1 located at the front of the food store or food department.

At all such printing scanner locations, the food store or food department shall provide the consumer with a means by which such pricing tag may be affixed or appended to the item or its packaging, such as tape or an adhesive pricing tag.

Consumer price scanners shall be deemed fully operational if:
The consumer price scanner clearly and conspicuously identifies and displays the item by name or other distinguishing characteristics;

The consumer price scanner displays the item's correct price when the item is scanned;
In the case of a food store or food department that uses loyalty cards or otherwise maintains a dual pricing system, the consumer price scanner displays both the loyalty card price and the non-card price if they differ;

For scanners capable of producing an individual item pricing tag, the food store or food department provides the consumer with a means by which such pricing tag may be appended to the item or its packaging, such as tape or an adhesive price tag.

CMR 202 7:05 SCANNER SPECIFICATIONS CONT.

The Deputy Director may, by regulation, authorize new technologies which further the intent of this section, including, but not limited to, hand held or shopping cart-attached scanners which retain in memory and itemize all scanned items. Such technologies may reduce the required number of consumer price scanners by no more than 50 percent.

202 CMR 7.04 (4) MAINTENANCE AND LOGS

Any food store or food department with more than 5,000 square feet of retail grocery item sales space that converts from an individual item pricing system to a consumer price scanner system shall within 3 months of such conversion hire or maintain not less than 2 employees whose responsibilities shall include the maintenance of all consumer price scanners within the food store or food department. Such maintenance shall include at a minimum:

daily checks of each consumer price scanner in the food store or food department to ensure that each such scanner is plugged in and operating correctly, including conducting a test scan of at least one item for each scanner to ensure that the scanner is operational;

Maintain a daily data log to record any and all repair requests for out-of-order scanners;

Place a sign on out-of-order scanners until they have been repaired, signs must include information re-directing consumers to the nearest operational scanner;

Replenish as needed materials used to provide individual pricing tags and the materials providing the means of affixing or attaching scanner-produced pricing information for printing scanners;

Ensure that inoperable or malfunctioning scanners are repaired or replaced within 72 hours of notification of malfunction or inoperability;

Ensure that shelf tags for merchandise are current and correct;

Maintain data log entries for price discrepancies as outlined in 202 CMR 7:07(6)..
202 CMR 7:07 (6)

All food stores and food departments, regardless of the pricing system utilized, shall maintain data on price discrepancies, which shall be provided to the division upon request.

The data shall be recorded on a daily log, signed or initialed by the employee who enters the data;

The log shall reference the time and date of the discrepancy, the name and brand of the item and the SKU or UPS code of the item, the price charged, the price differential, the steps taken to rectify the pricing error, and the time elapsed from discovery of the error to time it is corrected;

For those errors in a food store or food department using consumer price scanners which result in providing the consumer with a free item, a discounted item, and/or additional units provided to the consumer at the correct price, the log should also reflect the quantities of free or discounted items provided.

CONSUMER SCANNER WAIVER APPLICATION CHECK LIST

DOCUMENTS REQUIRED TO BE SUBMITTED WITH YOUR APPLICATION ARE:

- [ ] **A COMPLETED AND SIGNED APPLICATION**
- [ ] **A SCHEMATIC MAP SHOWING THE PROPOSED LOCATION OF THE CONSUMER SCANNERS THROUGHOUT THE FOOD STORE OR FOOD DEPARTMENT MUST BE INCLUDED WITH THIS APPLICATION. IDENTIFY THE SCANNERS THAT WILL HAVE THE CAPABLILTY TO PRINT A RECIEPT THAT CAN BE ATTACHED TO THE ITEM.**
- [ ] **A COPY OF THE HUMAN RESOURCE POLICIES, REGARDING AN EMPLOYEE COMPLAINT PROCESS, TO ENSURE THAT FULL TIME AND PART-TIME EMPLOYEES DO NOT SUFFER ANY WAGE OR BENEFIT LOSS DUE TO THE TRANSFER.**
- [ ] **A CHECK MADE PAYABLE TO THE COMMONWEALTH OF MASACHUSETTS.**
- [ ] **ATTACH A SAMPLE OF SHELF PRICE TAGS FOR REVIEW**
- [ ] **ATTACH A SAMPLE OF ALL REQUIRED SIGNAGE FOR REVIEW (BOUNTY NOTICE FOR REGISTERS, SCANNER LOCATION SIGNAGE AND CONSUMER NOTICE POSTING)**

COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION
DIVISION OF STANDARDS

IMPORTANT CONSUMER NOTICE!

DO YOU HAVE A PRICE ACCURACY QUESTION OR A QUESTION REGARDING

SCANNER OVERCHARGE
MISSING PRICE SIGNS OR
MALFUNCTION IN AISLE SCANNERS

PLEASE CONTACT
THE DIVISION OF STANDARDS
ONE ASHBURTON PLACE
BOSTON MA, 02108
TOLL FREE 1-888-283-3757 (toll free, in MA only)
FAX 617-727-5705
OR E-MAIL standards.mail@mass.gov

Office of Consumer Affairs & Business Regulation

Better businesses. Smarter consumers.

COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION
DIVISION OF STANDARDS

IMPORTANT CONSUMER PRICING NOTICE
PRICE ACCURACY GUARANTEE

As required in 202 CMR7.07: Lowest Price Requirements

(1) If there is a discrepancy between the advertised price, the sticker price, the scanner price, or the display price and the checkout price on any grocery item, a food store or food department shall charge a consumer the lowest price, regardless of the pricing system employed by the food store or food department.

(2) In the case of food stores or food departments utilizing a consumer price scanner system, if the checkout price or scanner price is not the lowest price or does not reflect any qualifying discount, the seller:

(a) Shall not charge the consumer for one unit of the grocery item, if the price is $10 or less;

(b) Shall charge the consumer the lowest price less $10 for one unit of the grocery item, if the lowest price is more than $10; and

(c) Shall charge the consumer the lowest price for any additional units of the grocery item.

202 CMR 7.07 MUST BE POSTED AT EACH CHECK OUT REGISTER