

CHAPTER 20. CONSUMER CONFIDENCE PROTECTION ACT

SEC. 21.2001. PURPOSE AND AUTHORITY.

Retail establishments primarily use automated checkout systems, called "point-of-sale systems," to calculate the prices consumers pay for commodities. When these systems are inaccurate, consumers may be overcharged and unaware they have paid more than an advertised or quoted price. Business and Professions Code sections 13350 et seq. were enacted to provide criteria for counties that adopt ordinances to inspect point-of-sale systems. The Board of Supervisors finds and declares it is in the public interest for the County Sealer of Weights and Measures to register and inspect point-of-sale systems. This chapter provides a regulatory program for the County Sealer to register and inspect automated point-of-sale systems to protect San Diego consumers and to recover the County's regulatory costs. This chapter also makes it unlawful to fail to register a point-of-sale system used for commercial purposes.

(Added by Ord. No. 9004 (N.S.), effective 3-4-99; amended by Ord. No. 9264 (N.S.), effective 11-24-00; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10200 (N.S.), effective 4-13-12)

SEC. 21.2002. DEFINITIONS.

The following definitions shall apply to this chapter:

- (a) "Commercial purposes" means determining the price consumers pay for retail products.
- (b) "Commodity" means any product sold at retail to a consumer.
- (c) "Point-of-sale station" means a checkout counter or other place in a retail establishment where a transaction occurs between a retailer and a consumer using a "point-of-sale system" to determine the price a consumer pays for an item.
- (d) "Point-of-sale system" has the same meaning as "point-of-sale system" in Business and Professions Code section 13352.
- (e) "Sealer" means the County Sealer of Weights and Measures, a Deputy Sealer or an inspector employed by the County Department of Agriculture, Weights and Measures for the purpose of enforcing this chapter.

(Added by Ord. No. 9004 (N.S.), effective 3-4-99; amended by Ord. No. 9264 (N.S.), effective 11-24-00; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10200 (N.S.), effective 4-13-12)

SEC. 21.2003. REGISTRATION REQUIRED.

A person who owns or operates a point-of-sale system used for commercial purposes shall be currently registered with the Sealer under this chapter. A separate registration shall be required for each business location. It shall be unlawful for a person to fail to register with the Sealer before using a point-of-sale system for commercial purposes. This registration shall be in addition to any other registration, license or permit which may be required by the County or any other public entity.

(Added by Ord. No. 9004 (N.S.), effective 3-4-99; amended by Ord. No. 9264 (N.S.), effective 11-24-00; amended by Ord. No. 9577 (N.S.), effective 8-8-03; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 9954 (N.S.), effective 9-5-08, operative 10-1-08; amended by Ord. No. 10200 (N.S.), effective 4-13-12)

SEC. 21.2004. APPLICATION FOR REGISTRATION.

An application for an initial or renewal registration shall be submitted to the Sealer on a form prescribed by the Sealer. The registration shall be deemed granted and become effective upon the Sealer's receipt of a completed application and the fee prescribed by this chapter or upon receipt of just the fee when no application is required.

(Added by Ord. No. 9004 (N.S.), effective 3-4-99; amended by Ord. No. 9264 (N.S.), effective 11-24-00; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10200 (N.S.), effective 4-13-12)

SEC. 21.2005. TERM AND TRANSFERABILITY OF REGISTRATIONS.

(a) Registrations are grouped into quarterly periods. The registration periods under this chapter are from January 1 to March 31, April 1 to June 30, July 1 to September 30 and October 1 to December 31. A registration is valid for up to one year. A registration that is granted during any one of these registration periods expires on the first day of the same registration period of the following year. For example, a registration that is completed on March 3, 2011 expires on January 1, 2012.

(b) Renewal of a registration is the responsibility of the person who owns the business location that uses a point-of-sale system and shall be made in a manner similar to the original registration.

(c) A registration shall not be transferable from one person to another person or from one business location to another business location.

(Added by Ord. No. 9004 (N.S.), effective 3-4-99; amended by Ord. No. 9264 (N.S.), effective 11-24-00; amended by Ord. No. 9514 (N.S.), effective 12-13-02; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10200 (N.S.), effective 4-13-12)

SEC. 21.2006. REGISTRATION, RENEWAL, RE-INSPECTION FEES AND LATE PENALTIES.

(a) A registration fee and a re-inspection fee for a person utilizing a point-of-sale system shall be established, from time to time, by the Board of Supervisors, in accordance with applicable provisions of law, in amounts not to exceed the costs incurred by the County in performing the inspection, re-inspection, testing and registration functions to which the fees relate. The registration fee for a point-of-sale system to be used for commercial purposes at the business location shall be as prescribed in County Administrative Code section 364.3 and is due on the first day of the applicable registration period.

(b) A person who fails to register a business location that has a point-of-sale system used for commercial purposes shall be in violation of this chapter. A person required to register under this chapter shall be subject to a late penalty of 50% of the registration fee if the person fails to register within 30 days of the due date. Additional late penalties of 50% of the registration fee shall be levied for each 30 days thereafter that the business location remains unregistered, up to a maximum late penalty of 200%.

(c) A person required to renew a registration for a business location under this chapter shall be subject to a late penalty of 50% of the registration fee if the person fails to register the business location within 30 days of the registration renewal date. Additional late penalties of 50% of the registration fee shall be levied for each 30 days thereafter that the registration is not renewed, up to a maximum late penalty of 200%.

(d) The Sealer may charge a re-inspection fee to recover the Sealer's cost for re-inspecting a point-of-sale station that failed the prior inspection. The fee shall be as prescribed in Administrative Code Section 364.3.

(e) Nothing in this section limits the County's right to prosecute and/or pursue civil penalties against an owner or operator of a business location who uses a point-of-sale system for commercial purposes in violation of this chapter.

(Added by Ord. No. 9004 (N.S.), effective 3-4-99; amended by Ord. No. 9264 (N.S.), effective 11-24-00; amended by Ord. No. 9514 (N.S.), effective 12-13-02; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10200 (N.S.), effective 4-13-12)

SEC. 21.2007. SEALER AUTHORIZED TO CONDUCT INSPECTIONS.

(a) The Sealer shall inspect all point-of-sale systems in retail establishments in San Diego County to determine the pricing accuracy of the systems, under a schedule determined by the Sealer. The Sealer shall follow Business and Professions Code sections 13350 et seq. when conducting inspections under this chapter.

(b) It shall be unlawful for any person using a point-of-sale system at a retail establishment for commercial purposes in San Diego County to refuse to allow the Sealer to conduct an inspection or to interfere with a Sealer's inspection under this chapter.

(Added by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.2008. [RESERVED.]

(Added by Ord. No. 9004 (N.S.), effective 3-4-99; amended by Ord. No. 9264 (N.S.), effective 11-24-00; amended by Ord. No. 9889 (N.S.), effective 10-26-07; repealed by Ord. No. 10200 (N.S.), effective 4-13-12)

SEC. 21.2009. [RESERVED.]

(Added by Ord. No. 9004 (N.S.), effective 3-4-99; amended by Ord. No. 9264 (N.S.), effective 11-24-00; amended by Ord. No. 9889 (N.S.), effective 10-26-07; repealed by Ord. No. 10200 (N.S.), effective 4-13-12)

SEC. 21.2010. POSTING OF NOTICE TO CONSUMERS.

(a) Every person who is required to register under this chapter shall post the following Attention Consumers at each point-of-sale station:

"ATTENTION CONSUMERS

Check your receipt and notify store management immediately of any overcharge.

Consumers are entitled to pay no more than the lowest posted, advertised, or quoted price for any commodity offered for sale at a retail establishment.

For information or to file a complaint, contact:

County of San Diego

Department of Agriculture, Weights and Measures at: 1-888-TRUE-SCAN (1-888-878-3722) or www.sdcawm.org"

The end of the Attention Consumers shall list the phone number and website address provided by the Sealer.

(b) Each Attention Consumers shall be posted so that it is conspicuous and easily read from a typical customer position at each point-of-sale station. The notice shall contain the wording required in subsection (a) above, be printed in English in letters at least 1/16 of an inch high, be legible and a color that contrasts with the background color of the notice.

(c) The Sealer shall provide a copy of the Attention Consumers upon request to any person required to be registered under this chapter. Alternatively, a Attention Consumers not prepared by the Sealer, may be used provided it contains the wording required in subsection (a) above and is printed in English in letters that are at least 1/16 of an inch high, are clearly legible and are in a color that contrasts with the background color of the notice.

(Added by Ord. No. 9597 (N.S.), effective 10-17-03; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10200 (N.S.), effective 4-13-12)

SEC. 21.2011. POSTING OF NOTICE OF PENALTY FOR FAILED INSPECTION.

(a) If the Sealer finds during an inspection under this chapter that a person is overcharging more than \$1.00 on a single item or overcharging on 2 or more items, without regard to the amount and the person's conduct results in

a criminal conviction, civil penalty or administrative civil penalty, the Sealer may require the person to post a "Notice of Failed Inspection." If the Sealer requires a Notice of Failed Inspection, the Sealer shall provide the notice with final Notice of Decision on the violation. This is in addition to any fines that are authorized pursuant to Business and Professions Code Section 12024.2 et seq.

(b) A person who receives a "Notice of Failed Inspection" shall post the notice within 24 hours of receiving it and shall post it for 10 consecutive days from the date first posted in the required location. The person shall post the notice so that it is clearly visible to any customer entering the business. The notice shall be posted at each entrance through which customers may enter the business or on a window facing outward, within three feet of any entrance, no lower than four feet off the ground and no higher than five feet off the ground. If the Sealer determines that the person has not properly placed the notice, the person shall relocate the notice as directed by the Sealer.

(c) It shall be unlawful for a person to fail to post the "Notice of Failed Inspection" or for a person, other than the Sealer, to cause the notice to be removed, covered, hidden or altered while it is required to be posted.

(Added by Ord. No. 9597 (N.S.), effective 10-17-03; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10200 (N.S.), effective 4-13-12)

SEC. 21.2012. POSTING OF NOTICE OF PASSING INSPECTION.

If a person passes an inspection under this chapter the Sealer shall offer to provide a "Notice of Passing Inspection." If a person requests the Sealer to provide a notice under this section, the notice shall only be posted for 10 days and shall only be a notice prepared by the Sealer.

(Added by Ord. No. 9597 (N.S.), effective 10-17-03; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10200 (N.S.), effective 4-13-12)

SEC. 21.2013. [RESERVED.]

(Added by Ord. No. 9597 (N.S.), effective 10-17-03; amended by Ord. No. 9889 (N.S.), effective 10-26-07; repealed by Ord. No. 10200 (N.S.), effective 4-13-12)

SEC. 21.2014. [RESERVED.]

(Added by Ord. No. 9597 (N.S.), effective 10-17-03; amended by Ord. No. 9889 (N.S.), effective 10-26-07; repealed by Ord. No. 10200 (N.S.), effective 4-13-12)

SEC. 21.2015. [RESERVED.]

(Added by Ord. No. 9597 (N.S.), effective 10-17-03; amended by Ord. No. 9889 (N.S.), effective 10-26-07; repealed by Ord. No. 10200 (N.S.), effective 4-13-12)