SENATE DOCKET, NO. 1306 FILED ON: 1/21/2011

SENATE . . . . . No. 1848

The Commonwealth of Massachusetts

PRESENTED BY:

Anthony W. Petruccelli

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to pricing in food stores and food departments.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Anthony W. Petruccelli	

SENATE DOCKET, NO. 1306 FILED ON: 1/21/2011

SENATE . . . . . No. 1848

By Mr. Petruccelli, petition (accompanied by bill, Senate, No. 1848) of Petruccelli for legislation relative to pricing in food stores and food departments [Joint Committee on Community Development and Small Businesses].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *98* OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to pricing in food stores and food departments.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 184B of chapter 94 is hereby amended in the definition of "food department" by striking the word "ten" and inserting in its place thereof the words: — "two hundred".

SECTION 2. Section 184C of chapter 94 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following: —

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 affixed to each unit the correct selling price. This requirement shall not apply to any item in any food store or food department which bears a Universal Product Code("UPC") barcode, either on the item or the item packaging

11 or on a pricing tag or sticker appended to the item, provided that the seller has available in the
12 store for consumer use at least one electronic scanner for every 5,000 square feet of store selling
13 space, with signs prominently posted adjacent to each scanner at and above eye level, identifying
14 for consumers the location of the scanners, and seller remains in compliance with section 29 of
15 chapter 98 of the General Laws by consistently maintaining a ninety eight percent (98%) or
16 higher accuracy rate on their electronic scanners, and provided further that the seller has obtained
17 the written authorization of all collective bargaining units to which the seller is contractually
18 bound to employ the use of electronic scanners as a means in which to identify the selling price
19 of an item. Electronic scanners available for consumer use are capable of (1) identifying and
20 displaying the item by name or other distinguishing characteristics; (2) displaying the price of the
21 item; and (3) producing an individual pricing tag for that item, except that the Director may
22 authorize the use of individual hand-held or cart attached scanners in lieu of producing an
23 individual pricing tag. At each scanner location, the seller must also provide the consumer with
24 a means by which such pricing tag may be easily affixed or appended to the item or its
25 packaging, including but not limited to the use of adhesive pricing tags. Such scanners must also
26 be in compliance with the Americans with Disabilities Act Accessibility Guidelines, 28 CFR Part
27 36, Appendix A and the Massachusetts Architectural Access Board Regulations 521 CMR 1.00
28 et seq.

29 SECTION 3. Section 184C of chapter 94 is hereby amended by striking out, in lines 29
30 and 30 the following words: —

31 “,weigh less than three ounces, cost seventy-five cents or less,”

32 SECTION 4. Section 184C of chapter 94 is hereby amended by deleting section (10) in
33 its entirety, and inserting in place thereof the following: —

34 (10) Items that are located in end-aisle or freestanding displays provided, however, that
35 if offered for sale by a seller with an automatic checkout system they are coded, or if offered by a
36 seller without such system they are on an easily referenced price list at each cash register, and
37 provided, further, that such items are fully and accurately price marked at their regular shelf
38 location, and the seller maintains a list of such items as required by section one hundred and
39 eighty-four D.

40 SECTION 5. Section 184C of chapter 94 is hereby amended by inserting at the end
41 thereof the following: —

42 (12) Items offered temporarily at an advertised reduced price.

43 (13) An additional 5% of items offered for sale, provided that a clear and conspicuous
44 separate sign or single sign in the case of similar items all priced the same, with the price no
45 smaller than three eighths of an inch high, is placed at the point of display of each exempted sale
46 item, identifying the item by its brand name and SKU or UPC number; and further provided that
47 the store maintains a current and accurate price list of all items exempted under this provision.
48 The seller may maintain such a list in any reasonable manner, provided that information
49 contained on the list can be referenced easily by the person requesting it.

50 (14) Food and grocery items sold in a fee-based, private membership wholesale club
51 provided that electronic scanners in compliance with this Section are available every 5,000
52 square feet of selling space.

53 (15) Non-grocery items sold in a food store provided that electronic scanners in

54 compliance with this Section are available every 5,000 square feet of non-grocery selling space.