

January 2, 1992

RESOLUTION NO. 1-92

ADOPTING LOCAL LAW NO. 1 FOR THE YEAR 1992
ST. LAWRENCE COUNTY ITEM PRICING LAW

By Mr. MacLennan, Chairman, Community Services Committee

WHEREAS, a public hearing has been held on January 2, 1992, regarding Local Law No. 1 for the year 1992, and

WHEREAS, prior notification of such local law was provided to the members of the St. Lawrence County Legislature,

NOW, THEREFORE, BE IT RESOLVED that Local Law No. 1 for the year 1992 is hereby adopted.

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Mr. MacLennan made a motion to adopt Resolution No. 1-92, seconded by Mr. Paquin.

Chairman Bradley requested a roll call vote for attendance. ALL LEGISLATORS WERE PRESENT.

Mr. Tomlinson, Mr. McFaddin, and Mr. Purvis all stated they were supporting the local law and gave their reasons, as well as Mr. Paquin. Mr. Ashley reported that he was opposed to this law and gave his reasons.

Mr. Romigh asked the County Attorney if there could be any additions to the local law and Mr. Lekki, the County Attorney, reported that if there is an amendment such as Mr. Tomlinson had proposed, and it changed the local law significantly, you would have to have the final version on the desks of the legislators for a seven day period, or have a special board meeting, or wait until the next board meeting. Mr. Lekki said if the amendment does not change the sense of the local law it is ok but major changes are not.

Mr. Luckie said that Gretel Baltradis from Ogdensburg is not able to be here and she is supporting the local law. Mr. Luckie then called on John Cruikshank, the Sealer of Weights and Measures for the County, to discuss the possibility of enforcing this local law.

Mr. Cruikshank reported to his knowledge that there had never been any complaints in his office on item pricing but he has concerns about enforcement. Mr. Cruikshank said most of the representatives of the businesses he works with, supermarkets, are here and he has a good working relationship with these people. Mr. Cruikshank said he does not see the other businesses here today, such as Hills, Jamesway, Ames, and many other convenience stores. Mr. Cruikshank did report that this would be quite a burden for a two man department and there is also a new law in the state regarding octane testing for gasoline stations. Mr. Cruikshank did not feel that a law of this magnitude could be adequately enforced without additional provisions for enforcement in his office. Mr. Luckie gave his reasons for not supporting the local law, as did Mr. D. Smith and Mr. J. Smith. Mr. Dunham said he believed the statement about consumer enforcement was misunderstood.

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Mr. Wells said he came here to oppose the law and now that he has listened to both sides he is not sure. Mr. Wells made a motion to table this local law until a better law is written (two months), seconded by Mrs. Carey.

Chairman Bradley asked since we have already conducted the public hearing, do we have to have another public hearing. Mr. Lekki responded that he did not believe so, if we do not make an amendment, we do not have to readvertise this particular law for one month.

Mr. Paquin and Mr. Morse called Point of Order and asked if it was the intention of tabling the local law so that the board could amend the local law. Mr. Wells replied that it is his intention to have the local law amended. Mr. Dunham asked if a tabling motion can specify when it is brought back, he had understood that a tabling motion could be for no more than one month and then brought back when the committee had reformulated the local law.

Mr. Luckie called point of order and asked for a clarification. Chairman Bradley said the motion is to send back to committee to discuss amending the law and having it back on the floor in March. By a roll call vote, the tabling motion lost 48.8 votes in favor of the tabling motion (Teele, D. Smith, Carey, J. Smith, Moore, Snider, Dunham, Lacy, Pierce, Luckie, Wells) and 51.2 no votes.

Mr. Paquin called for the original question to be voted on, which was seconded and carried with five no votes (Teele, Wells, McFaddin, Morse, Lacy).

By a roll call vote on Resolution No. 1-92, the resolution was carried with fourteen (14) yes votes and eight (8) no votes (Teele, D. Smith, Carey, J. Smith, Moore, Snider, Lacy, Luckie).

Chairman Bradley thanked everyone for their presentations and closed this portion of the meeting at 11:25 a.m.

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LOCAL LAW 1 FOR THE YEAR 1992 - ST. LAWRENCE COUNTY ITEM PRICING LAW

Section One: LEGISLATIVE INTENT

This law recognizes that clear, accurate item pricing is a basic consumer right that is not protected under current state law. It is the intent of this legislation to ensure that consumer goods offered for sale in St. Lawrence County are clearly, accurately and adequately marked as to their selling prices.

Section Two: DEFINITIONS

A. "Stock keeping unit" shall mean each group of items offered for sale of the same brand name, quantity of contents, retail price, and variety within the following categories:

- i) food, including all material, solid, liquid or mixed, whether simple or compound, used or intended for consumption by human beings or domestic animals normally kept as household pets and all substances or ingredients to be added thereto for any purpose; and
- ii) napkins, facial tissues, toilet tissues, and any disposable wrapping or container for the storage, handling or serving of food; and
- iii) detergents, soaps, other cleansing agents, and cleaning implements; and
- iv) non-prescription drugs, feminine hygiene products and health and beauty aids.

B. "Stock keeping item" shall mean each item of a stock keeping unit offered for sale.

C. "Universal product coding" shall mean any system of coding which entails electronic pricing.

D. "Item price" shall mean the tag, stamp or mark affixed to a stock keeping item by an authorized person which sets forth, in arabic numerals, the retail price.

E. "Computer-assisted checkout system" shall mean any electronic device, computer system or machine which determines the selling price of a stock keeping item by interpreting its universal product code, or by use of its price look-up function.

F. "Price look-up function" shall mean the capability of any checkout system to determine the retail price of a stock keeping item by way of the manual entry into the system of a code number assigned to that particular unit by the retail store or by way of the checkout operator's consultation of a file maintained at the point of sale.

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G. "Inspector" shall mean an authorized government official having jurisdiction to enforce the provisions of this section.

H. "Retail store" shall mean a store selling stock keeping units at retail. A store which is not open to the general public but is reserved for use by its members shall come within the provisions of this definition unless the members must pay a direct fee to the store to qualify for membership and the store is not required to collect sales tax on transactions with members. Pursuant to this section, a retail store shall not include any store which:

- i) has as its only full-time employee the owner thereof, or the parent, or the spouse or child of the owner, or in addition thereto, not more than two full-time employees; or
- ii) had annual gross sales in a previous calendar year of less than three million dollars, unless the retail store is part of a network of subsidiaries, affiliates or other member stores, under direct or indirect common control, which, as a group, had annual gross sales in the previous calendar year of three million dollars or more; or
- iii) engages primarily in the sale of food for consumption on the premises or in a specialty trade which the Director of the Weights and Measures determines, by regulation, would be inappropriate for item pricing.

Section Three: ITEM PRICING REQUIRED

A. Every person, firm, partnership, corporation or association which sells, offers for sale or exposes for sale in a retail store a stock keeping unit that bears a Universal Product Code shall disclose to the consumer the item price of each stock keeping item.

B. Certain items exempted. The following stock keeping items need not be item priced as provided in subdivision A of this section provided that a shelf price and a price look-up function are maintained for such stock keeping items;

- i) Snack foods such as cakes, gum, candies, chips and nuts offered for sale in single packages and weighing five ounces or less.
- ii) Stock keeping items which are under three cubic inches in size, and weigh less than three ounces, and are priced under fifty cents;
- iii) Items sold through a vending machine.

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Section Four: PRICING ACCURACY

A. No retail store shall charge a retail price for any exempt or non-exempt stock keeping item which exceeds the lower of any item, shelf, sale or advertised price of such stock keeping item. In the event that the programmed computer price exceeds the lowest price a store is permitted to charge for a stock keeping unit, the store will be subject to a penalty as described in section five, subsection E.

B. In a store with a laser scanning or other computer assisted checkout system, the enforcing agent shall be permitted to compare the item, shelf, sale or advertised price of any one stock keeping item sold in the store with the programmed computer price.

Section Five: ENFORCEMENT

A. Item pricing inspection procedures. For the purposes of determining a store's compliance with the requirements of section three, when an inspection is made it shall be conducted of a sample of no less than fifty stock keeping units.

B. Laser scanner accuracy inspection procedures. For any inspection under section four, the store representative shall afford the inspector access to the test mode of the checkout system in use at that store or to a comparable function of said system and to the retail price information contained in a price look-up function.

C. Stop removal order. An inspector shall have the authority to issue a stop removal order with respect to any device, system, or stock keeping unit being used, handled, or offered for sale in violation of section three or four. Any such order shall be in writing and direct that the device, system or stock keeping item, as the case may be shall be removed from use or sale pending correction.

D. Penalties for item pricing violations. Any person who fails to mark any stock keeping item in violation of section three shall be subject to the penalties of not less than twenty dollars and not more than fifty dollars per violation. For additional violations during a subsequent inspection in a twelve month period, the above penalties shall be doubled. No penalties shall be imposed for a violation of section three if more than ninety-five percent of all the stock keeping items inspected in each stock keeping unit at an individual point of sale contain clearly readable item prices.

E. Penalties for scanner accuracy violations. For a violation of the provisions of section four, a penalty in the amount of fifty dollars per violation shall be imposed for the first two percent of the stock keeping items compared rounded to the nearest whole number; one hundred dollars per violation for the next two percent; two hundred dollars per violation for the next two percent; and three hundred dollars for each additional violation. For additional violations during a subsequent inspection in a twelve month period, the above penalties shall be doubled.

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F. Jurisdiction. The provisions of this section and the regulation promulgated hereunder shall be enforced by the Director of Weights and Measures.

G. This Local Law shall take effect sixty days from the date of its adoption by the St. Lawrence County Legislature.

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ORGANIZATIONAL MEETING

10:00 A.M. - Board Room

Deputy Clerk, Phyllis McCall called the meeting to order at 11:38 a.m.

The Deputy Clerk called for nominations for a temporary chairman

Mr. McFaddin nominated Mr. Morrill to be temporary chairman, seconded by Mr. Purvis, and carried unanimously by a voice vote.

ROLL CALL: ALL LEGISLATORS WERE PRESENT.

Mr. J. Smith led everyone in prayer, followed by the pledge of allegiance.

Temporary Chairman Morrill asked for nominations for Chairman of the Board.

Mr. Purvis nominated Betty Bradley as Chairman of the St. Lawrence County Board of Legislators, seconded by Mr. Wells.

Mr. Lacy nominated Mrs. Carey to be Chairman of the St. Lawrence County Board of Legislators, seconded by Mr. Romigh.

Mr. Morse and Mr. Teele made a motion that the poles be closed, seconded by Mr. Luckie and carried by a voice vote.

By a roll call vote, Mrs. Bradley was elected by Chairman of the Legislature with sixteen (16) yes votes and Mrs. Carey had six(6) votes (Teele, Carey, Snider, Dunham, Lacy, and Romigh).

Temporary Chairman Morrill requested Mr. McFaddin and Mr. Pierce to escort the new Chairman to the dais. Chairman Bradley asked for nominations for Vice-Chairman. Mr. McFaddin nominated Mr. Morrill for Vice-Chairman, seconded by Mr. Luckie. Mr. Morse made a motion to close nominations, seconded by Mr. Tomlinson and Mr. Teele, and carried unanimously by a voice vote. Mr. Morrill was unanimously elected as Vice-Chairman.

Chairman Bradley spoke about the challenge from 1991 called retrenchment and that St. Lawrence County did not have a crisis in 1991 unlike other counties in New York State did. Chairman Bradley said the indications are that the financial picture will not improve in 1992 and asks support from all.

Chairman Bradley asked if there was any citizen participation, and there was none.

Chairman Bradley stated it was time for a presentation of resolutions.