TOP PRICING TIPS FOR UPC & PRICE POSTING

Arizona Department of Weights and Measures
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The Arizona Department of Weights and Measures

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Price Verification/Price Posting Laws

Arizona laws are designed to protect both consumers and retailers from unfair business practices. This section will address the legal requirements for pricing that ALL Arizona retailers are required to follow.

Arizona Revised Statutes (ARS), Title 41, Chapter 15, §41-2081

Avoid Deceptive Practices
A. A person shall not sell or offer or expose for sale less than the quantity the person represents.

B. As a buyer, a person shall not take any more than the quantity the person represents when the person furnishes the weight or measure by means of which the quantity is determined.

C. A person shall not misrepresent the price of any commodity or service sold or offered, exposed or advertised for sale by weight, measure or count or represent the price in any manner calculated or tending to mislead or in any way deceive a person.

Package Declarations
F. Except as otherwise provided in this chapter or by rules adopted pursuant to this chapter, any package kept for the purpose of sale or offered or exposed for sale shall bear on the outside of the package a definite, plain and conspicuous declaration of:
1. The identity of the commodity in the package, unless the commodity can easily be identified through the wrapper or container.

2. The quantity of contents in terms of weight, measure or count.

3. The name and place of business of the manufacturer, packer or distributor, in the case of any package kept, offered or exposed for sale or sold in any place other than on the premises where packed.

4. The price, except as provided in subsections K and L.

G. In addition to the declarations required by subsection F, any package being one of a lot containing random weights 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.

Shelf Pricing
K. Instead of each package bearing the price as required under subsection F, paragraph 4, the seller may post the price of the package in bold type that measures no less than three-eighths of an inch (height) on the shelf or display at the point of display of the product. If the price on the shelf or display is less than eighteen inches from floor level, the price shall be angled upward from vertical at least fifteen degrees

Sales Items
L. If the package is offered for sale at a price reduced by a percentage or a fixed amount from a previously offered price, the reduction shall be displayed at the point of display of the package in the manner required by this section.

Pens and Pricing Error Policy
M. On the request of a consumer, a retail seller shall provide:
1. A means of recording prices such as grease pencils, felt markers, scanners or other similar instruments for recording the price.
2. A written statement of the retail seller's policies regarding errors in pricing.

Arizona Administrative Code (AAC), Title 20, Chapter 2 R20-2-302

NIST Handbooks
A. A person shall comply with all packaging, labeling, and method of sale requirements in Handbook 130 (2003 edition), except as otherwise stated in this Chapter. A person shall ensure that packaged commodities kept, offered, exposed for sale, sold, or in the process of delivery are weighed, measured, and inspected using sampling and testing procedures designated in Handbook 133 (2003 edition), except as otherwise stated in this Chapter.

Package Declarations
B. A retail seller shall ensure that a package that is offered for sale in a variable weight, measurement, or count, and that is weighed, measured, or counted at the time of sale, includes a label on the package identifying the net weight, measurement, or count, item description, and packer's name if the packer is not the retailer. Prepackaged produce does not require a label on each package if the retailer:
1. Clearly labels the price-per-pound where the packaged produce is displayed, and

2. Deducts a tare for the packaging from the gross weight at the time of sale.

Online Sales
C. A retail seller shall price a commodity at the date and time that it is ordered by a customer.

Price All Commodities
D. A retail seller who offers, exposes, or advertises a commodity for sale or rent shall post a definite, plain, and conspicuous price on the commodity or adjacent to where the commodity is displayed. If the price of the commodity is by weight, measure, or count, the retailer shall place the price per weight, measure, or count on the commodity or adjacent to where the commodity is displayed. If a retailer offers a commodity for sale or rent at a price reduced by a percentage or a fixed amount from a previously offered price, the retailer shall place the reduction or reduced price on the commodity or adjacent to where the commodity is displayed.

Cash Register Display Requirements
F. A retail seller shall ensure that the price of each item purchased is displayed visibly to the public at each check-out location.

Inspections Procedures

Many retailers who have high compliance rates conduct Internal UPC and Price Posting Inspections which mirror the Department's methods. This section will guide you thorough both types of inspections.

UPC

Make sure your store has:
1) A written policy regarding pricing errors that tells your customers what your store will do if a price scans incorrectly. This policy is required to be available to both customers and Investigators upon their request. ARS §41-2081 (M)(2)

2) Pens, pencils or other means of recording prices available to customers upon request. ARS §41-2081 (M)(1)

3) A price either on each commodity or adjacent to each commodity. Remember all commodities offered, exposed or advertised for sale or rent are required to have a price on the item, shelf or point of display. ACC R20-2-302 (O)

Mirror the Department's UPC Inspection by:
1) Determining a number of areas or departments in the store to be tested.

2) Randomly select a total of 50 items or for small stores collect 25 items. Collect items using the random method described in NIST Handbook 130, Examination Procedure for Price Verification. (Note: During an official test a retailer may NOT verify prices while items are being selected, use a hand-held scanner or pick test items.)

3) On a worksheet write down a description of each item selected. Include:

- The identifying number if the item will not be transported to checkout stand.
- Location of item in store (i.e., aisle number)
- Posted price or price on item or at point of display

4) Take the items to the checkout stand, place the cash register in training mode, and verify that the scanned price is the same as the price you recorded.

Tip

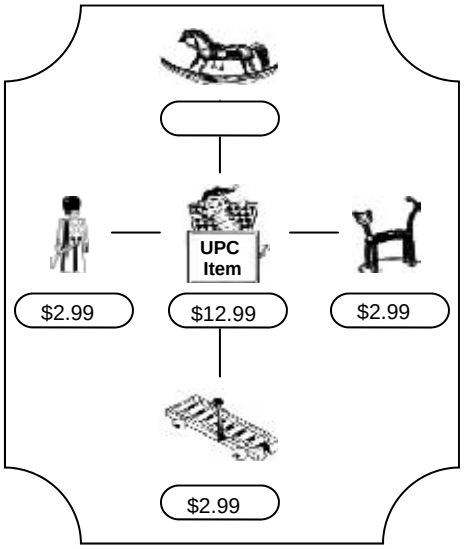
To save time when conducting an in-house inspection, use a handheld scanner to verify prices.

UPC Violations

Determine the number of errors found. All overcharges are considered errors. The compliance rate is calculated by dividing the number of correctly priced items by the number of items tested. A retailer must achieve and maintain a 98% compliance rate, or one error for a small store, to be in compliance. If every commodity in the store is item priced, and the store does not use scanning technology or SKU entry to check out items, the store is automatically considered in compliance, and verification of items is not required unless the inspection is in response to a consumer complaint. During an official visit undercharges are to be recorded as a service to the retailer but not used to establish a compliance rate.

Price Posting

If combined with a UPC inspection, the Inspectors will choose the UPC item and then select items to the north, south, east and west of each UPC item. Where 50 UPC items are selected, a total of 250 items will be checked for price posting. The Inspector will record the item and location of those not priced. In addition, all other non-priced items observed during the inspection will be recorded as pricing errors.



The example demonstrates the north, south, east and west observation method. Notice the missing price on the rocking horse. It is a price posting violation.

If the item chosen is at the top, bottom, or end of a shelf, an additional adjacent commodity in one of the other directions will be included. If there are no shelves, utilize the north, south, east, and west observation pattern. At small retail sites where 25 UPC items are selected, 125 items will be checked for price posting.

Price Posting Violations

1) No price is posted or displayed for an inspected item, or

2) Less than 98 percent of the prices of inspected items are posted accurately. ACC R20-2-402 (C)

Price-posting Inspection Violation Exceptions

The following are not price-posting violations and are found in the Arizona Administrative Code (AAC) R20-2-402 (D)

- A price is posted on a shelf where an item is displayed rather than marked on the item individually.
- A price is posted on the shelf at the farthest left side of all items with the same price for up to three feet of shelf space. The price for commodities with the same uniform price code may be more than three feet from the price posted if they are all displayed in the same location.
- A price posted above the highest item in a vertical location is the price of all items in that location; each size is posted.
- A storage area that is posted as a storage area for which a customer should ask for assistance.
- A restocking area that is posted as a restocking area for which a customer should ask for assistance;
- A price is posted on a hook in front of or behind a row of items but the price is clearly visible or a notice is clearly visible stating that the price is posted behind the row of items.
- An item is located in an advertising display without a posted price but a notice is posted informing a customer to ask for price information assistance about an item in the display. A service counter is not an advertising display.
- A menu-type sign at a point of display that lists the name and price of every item at the point of display in text at least 3/8” high.
- A point of display contains more than one item posted with the manufacturer’s name or logo and the price and name of each item in the point of display are posted.
- A price is posted only at each entrance to a store but that price is the price of each item in the store, or at each entrance to a department within a store but that price is the price of each item in the department.
- A notice must state that there is an additional charge based on an item’s size and each size and the additional charge for each size is posted.

Enforcement Requirements

On September 20, 2004 the Department implemented the Enhanced Price Verification Program, which focuses resources on retailers who overcharge consumers. During an official inspection overcharged items are counted as violations and undercharged items are noted on the inspection sheet as a service to retailers. A store will fail a price verification inspection if more than one item scans over the posted or item price. The Department will reinspect a non-compliant establishment after six (6) calendar days. Failure of the first reinspection results in a civil penalty. Retailers who fail the reinspection will be reinspected the next business day until they pass two consecutive inspections. The following sections review the legal guidelines for both inspection procedures and civil penalties.

Price Verification Enforcement and Civil Penalties AAC R20-2-104 (I)

1. The initial inspection of a retail location for price verification is for educational purposes and an enforcement action will not be taken for a violation identified during the initial inspection.

2. The Department shall issue a stop-sale, stop-use tag to a person who fails a price verification reinspection if the violation cannot be corrected within 30 minutes of the Department completing the reinspection.

a. The Department shall impose a $100 civil penalty per violation on a person who fails a reinspection if the Department finds more than one item at more than its posted price.

b. The Department shall impose a $200 civil penalty per violation on a person who fails a second reinspection. The Department shall increase the per violation civil penalty imposed by $100 for each subsequent reinspection until the violation is corrected.

3. If the Department receives and substantiates a complaint about a person against whom the Department took an administrative enforcement action under subsection (I)(2) within the 60 days before the date of the complaint, the Department shall issue a stop-sale, stop-use tag and impose a civil penalty that is $100 more than the civil penalty that the Department previously imposed against this person.

4. The Department shall issue a warning to a person who does not have a written price-error policy. The Department shall impose a $500 civil penalty if the person does not have a written price-error policy upon reinspection.

5. The Department shall issue a warning to a person who does not have a price display visible to the public at a check-out location. The Department shall issue an out-of-service tag if the person does not have a price display visible to the public at a check-out location upon reinspection.

Price Posting Enforcement and Civil Penalties AAC R20-2-104 (J).

1. The initial inspection of a retail location for price posting is for educational purposes and an enforcement action will not be imposed for a violation identified during the initial inspection.

2. The Department shall issue a stop-sale, stop-use tag to a person who fails a price posting reinspection if the violation cannot be corrected within 30 minutes of the Department completing the reinspection.

3. The Department shall impose a $50 civil penalty for each inspected lot not priced if a person fails a reinspection with a score of less than 96 percent.

4. The Department shall impose a $100 civil penalty for each inspected lot not priced if a person fails a second reinspection.

5. If the Department receives and substantiates a complaint about a person against whom the Department took an administrative enforcement action under subsection (J)(2) within the 60 days before the date of the complaint, the Department shall issue a stop-sale, stop-use tag and impose a civil penalty that is $100 more than the civil penalty that the Department previously imposed against this person.

Administrative Enforcement AAC R20-2-104 (A-E)

A. The Department shall take progressive enforcement action for a violation of A.R.S. Title 41, Chapter 15, CARB Executive Orders, Handbook 44, Handbook 130, Handbook 133, or this Chapter.

B. The Department shall provide a copy of its inspection report to the person who owns or operates a location that the Department inspects. The report shall include the inspection results, violations, and enforcement action.

C. The person who owns or operates a location inspected by the Department may request a hearing under R20-2-109 to dispute the inspection results, violation, or enforcement action.

D. The Department shall suspend, revoke, or refuse to renew any license if the licensee does not comply with an enforcement action imposed under this Section.

E. A maximum civil penalty may be doubled as stated in A.R.S. § 41-2115(B).

Internal Pricing Programs

Establish UPC & Price Posting Programs!

Try The Round-Robin Approach
Monthly, require managers to visit each other's store or department to conduct an inspection. By establishing this type of program throughout the company, managers get a fresh set of eyes evaluating their store without incurring large civil penalties or requiring your company to contract an outside auditing firm.

Corporate Audit
Conduct a corporate audit of all locations every six months with incentives for excellent results and a specific and immediate remedial plan of action for failures.

"Ten-A-Day" Keeps Department Investigators At Bay
Have your store Manager and employees check at least 10 items per day. Fix all discrepancies, report all errors and make corrections immediately.

Use Your Free Time To Stop A Fine
When employees go on break, encourage them to walk a different aisle and report or correct missing prices. Some retailers give employees cash bonuses for finding errors. . Making this a contest can be a fun way of bringing your store into compliance.

Keep an Error Tab
If a customer brings an error to the attention of any employee, write it down and fix it as soon as possible.

POST IT! POST IT! POST IT!
Post your pricing error policy at the checkout counter. Remember the law requires all retailers to have the policy available to customers upon request. Post your policy at the employee time clock or break room.

Price Items As You Stock Them
Make it a company policy to price all items at the same time they are stocked. Remember the job is not complete until the price signs are up!

Make Your Pricing Error Policy Work For You
In Arizona all retailers are required to have a written pricing error policy stating what the retailer will do for their customer if an item scans wrong. (A.R.S. §41-2081 (M) (2)) This policy is required to be available to customers upon request. The content of the policy is up to you. Many retailers use their pricing error policy as a marketing tool to tell customers they care about accurate pricing. Successful retailers also advertise their written pricing error policy on shelf talkers throughout the store and promote it through in-store PSA's.

Make Your Weekly Ads Work For You
Put your written error policy in your weekly sales ads to show your customers that you care about accurate pricing.

Make sure you designate an employee to check your weekly ad against the posted price.

Make Your Policy A Top Priority
Adhere to your written policy chain-wide. All employees should know the policy and how to apply it. During an inspection your employees may be quizzed about your pricing error policy, so do it first! Pricing errors are frustrating to your customers so make it easy for employees to follow your policy.

Employee Checklist

- ✓ Before you start your shift, walk around your checkout counter or area and look for items misplaced and/or missing prices.
- ✓ Review all printed sales ads and keep a copy of them handy. If you find an error between the ad price and shelf price, notify your manager immediately!
- ✓ Have a written copy of your pricing error policy available.
- ✓ Have pens, markers, handheld scanners, etc. available for customers or know where to direct customers so they can obtain them. By law, (A.R.S. §41-2081 (M) (1)) if a customer asks for a pen to write down prices, you must provide one.
- ✓ If a customer brings a scanning error to your attention, follow your company's written policy and notify the appropriate person to fix the problem.
- ✓ At the end of your shift, recheck your station for misplaced and no price items.
- ✓ When you take a break or end your shift, walk a different aisle to check for missing prices.

Pricing Pitfalls: What To Avoid

Deceptive Pricing
Multiple prices can be deceptive. In the left photo, there are two different prices. According to the retailer, the customer was expected to total the $55.00 and $38.50 prices which equaled $93.50. This would be a violation. Place only one total price (excluding tax) on an item! If two prices are on an item, the customer should expect to pay the lower price. The UPC inspection will ALWAYS note the lowest as the correct price.

Not Pricing Displayed Products
Products displayed by cash registers or on a check-out counter, as shown in the second photo, are often neglected. To avoid possible civil penalties, have cashiers check their area for properly priced items every time they start and/or end a shift.

Sold By The Each Or The Case?
When using boxes and/or cases as displays, price items clearly so customers know if the product is being sold by the each or by the case.

Everything But A Price!
This display may look great because valuable information is shown and each sign is directly under each item, however, on closer examination (see right photo) the retailer forgot to put a price on the sign.

A

B

Two Locations, One Sign
The same product is in two different locations. Although there is a sign for the items in the area marked A, products in area marked B are not priced and considered a price posting error.

Make Signs That Make Sense

Avoid fines with the right signs

Left To Right Makes It ALL RIGHT!

Consistency is the key to sign placement. Many retailers use the left to right method for pricing products. When pricing items on a shelf that are priced the same, place the first price sign under the far left most product on the shelf. When a product has a different price make a new sign and place the sign under it. If the product continues for more than three feet, repeat the sign so that your customers don't become confused. It's that easy!

The above photo demonstrates the left to right price posting method.

Vertical Works Too!

Hanging items can be a challenge. Use the same horizontal method but just do it vertically. When using the vertical method, start from the top item in the first column. If all products in the column are the same price, use only one sign at the top. If a price changes below, make a new sign. Proceed to the next column and follow the same method.

Notice how all items in each column are the same price. Only one sign is needed for each column.

Sales Signs

Customers love sales, but if your sale sign or price tag is confusing, it may result in a lost sale. ALWAYS put yourself in your customers' shoes when you make a sale sign. Ask yourself:

1) Is the listed discount correct?
2) Will my customers be confused about the price?

A Good Sale Sign

The sign to the left describes exactly what the product is, noting the original price of $74.99 and the sale price of $49.00. The sign was also placed directly under the product being offered for sale. This is a great example of what to do!

Always State The Exact Sales Amount

This photo demonstrates a sign that may be interpreted as 70% (20%+50%) off the marked price of all diamond necklaces which is incorrect. If the necklace sells for $100, a 20% reduction after 50% reduction = $40. Customers may have expected to pay $30 (70% off). To avoid this type of mistake always state the exact percentage amount of the sale or include "take an extra 20% off THE SALE PRICE."

Avoid Multiple Price Reductions

Sale tags such as this example can also be problematic. When items are reduced multiple times, the actual price can be confusing to customers. The Department advises retailers to limit the number of separate prices and honor the lowest price placed on it. When prices have changed, it is important for retailers to update their UPC system and/or disfigure the incorrect bar code or remove price labels that no longer apply.

All price posting signs are required to have:
-Prices at least 3/8th of an inch in height,
-Bold print, and
-A 15% angle up on the bottom shelf for easier reading (A.R.S. §41-2081 (K).

Vendor, Storage & Restocking Solutions

If products are not priced it is the retailer not the vendor who is subject to civil penalties

Educate Your Vendor!

Many retailers rely on their vendors to stock items. Vendors are generally in a hurry and may forget to price items. A written vendor contract that includes a statement of vendor responsibility for pricing items does not override the retailer's responsibility to comply with pricing laws.

- A vendor should not leave your site without either pricing items or posting a restocking sign.
- When negotiating your contract with a vendor, request that their drivers carry restocking signs in their trucks and use them when needed.
- Designate an employee to check your vendors' work. If you discover that a vendor did not price the products they delivered, FIX IT! Then notify the vendor about the problem so the error doesn't recur.
- Make your vendors part of your pricing team. Host a Weights & Measures Vendor Education Seminar to educate your vendors about the pricing laws.
- Encourage your vendors to keep an eye on your store when they are stocking products and notify you if they see displays, products or storage areas that are missing proper pricing information.

Storage Strategies!

Need to store some items within a customer's reach? No problem. Just make a storage area sign that informs customers that a designated area is for items that are not offered for sale. When creating your sign make sure it is clear to customers that they will not find prices on products in the storage area.

One big mistake retailers have made in the past was creating a storage or restocking sign and placing it in the front of their store and then not price any items. One sign for an entire store is unacceptable. Restocking and storage signs are designed to help retailers with storage and product transition challenges and not as a tool to hinder the ability of your customers to comparison shop.

Restocking Strategies!

Items being restocked are subject to inspection. When restocking, post the price either on or near the items or make a generic sign that reads, "Restocking please ask for assistance." Attach or post the restocking sign to shopping carts, dollies, and/or stacks of boxes that are not yet stocked.