

Ordinance No. 122845

Council Bill No. 116360

AN ORDINANCE relating to electronic price scanning systems; increasing the annual registration fees for electronic price scanning systems; and amending Section 7.04.038, Section 7.04.130, Section 7.04.145, Section 7.04.175, Section 7.04.645 and Section 7.04.690 of the Seattle Municipal Code, including technical corrections thereto.

# The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: \_\_\_\_\_  
Councilmember

## Committee Action:

11/12/08 PASS 9-0

11-24-08 Passed 9-0

CF No. \_\_\_\_\_

|                              |                 |  |
|------------------------------|-----------------|--|
| Date Introduced:             | <u>10-13-08</u> |  |
| Date 1st Referred:           | <u>10-13-08</u> | To: (committee)<br><u>Budget</u>   |
| Date Re - Referred:          |                 | To: (committee)  |
| Date Re - Referred:          |                 | To: (committee)  |
| Date of Final Passage:       | <u>11-24-08</u> | Full Council Vote:<br><u>9-0</u>   |
| Date Presented to Mayor:     | <u>11-25-08</u> | Date Approved:<br><u>12.2.08</u>   |
| Date Returned to City Clerk: | <u>12.4.08</u>  | Date Published: <u>9</u> T.O. <input checked="" type="checkbox"/><br>F.T. <input type="checkbox"/> |
| Date Vetoed by Mayor:        |                 | Date Veto Published:   |
| Date Passed Over Veto:       |                 | Veto Sustained:  |

This file is complete and ready for presentation to Full Council. Committee: \_\_\_\_\_ (initial/date)

*Law Department*

Law Dept. Review

OMP Review

City Clerk Review

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Indexed



# City of Seattle

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Gregory J. Nickels, Mayor

## Office of the Mayor

September 29, 2008

Honorable Richard Conlin  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Conlin:

I am transmitting the attached proposed Council Bill for consideration with the 2009 Proposed Budget. This legislation proposes an increase in the annual registration fees for electronic price scanning systems used for commercial purposes, pursuant to Seattle Municipal Code Section 7.04.645 D. Additionally, the legislation changes references throughout the Seattle Municipal Code from "electronic pricing systems" to "electronic price scanning systems" to better describe today's scanning technology. Finally, the Bill revises the Seattle Municipal Code to correct a reference in an SMC section heading relating to the Director of Executive Administration's designation as the official City Sealer.

The electronic price scanning system registration fees have not been raised since they were first imposed by Ordinance 120976, effective January 1, 2003. The attached legislation proposes a new fee level of \$150 for systems with three or fewer electronic pricing devices, and a fee of \$300 for systems with more than three electronic pricing devices.

The fee levels implemented by this Bill will support effective electronic price scanning system inspection and enforcement for the benefit of consumers and local businesses. Thank you for your consideration of this legislation. Should you have questions, please contact Denise Movius at 684-9259.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Greg Nickels".

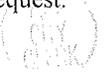
GREG NICKELS  
Mayor of Seattle

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600 Fourth Avenue, 7<sup>th</sup> Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E:mail: [mayors.office@seattle.gov](mailto:mayors.office@seattle.gov)

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1 With respect to the enforcement of this code and any other law dealing with weights and  
2 measures, packaging, or electronic ~~pricing~~ scanning systems that the City Sealer is, or may  
3 be empowered to enforce, the City Sealer is vested with the powers of a special policeman, and is  
4 authorized to arrest any violator of the code and to seize for use as evidence incorrect or unsealed  
5 weights and measures or amounts or packages or commodity, used, retained, offered or exposed  
6 for sale, or sold in violation of law. Upon presentation of proper credentials, the City Sealer is  
7 authorized with the consent of the occupant or pursuant to a lawfully issued warrant at reasonable  
8 times during the normal business hours of the person using the weights and measures or  
9 electronic ~~pricing~~ scanning system to enter into or upon any structure or premises where  
10 weights and measures or electronic ~~pricing~~ scanning systems are used or kept for commercial  
11 purposes for the purpose of performing any duty imposed upon the City Sealer by this code.  
12  
13

14 **Section 5.** Effective January 1, 2009 Section 7.04.645 of the Seattle Municipal Code is  
15 amended as follows:

16 **7.04.645 Registration -- Fees.**

17  
18 A. Except as provided in subsection F of this section, no weighing or measuring  
19 instrument or device, or electronic ~~pricing~~ scanning system, may be used for commercial  
20 purposes in the city unless its commercial use is registered annually with The City of Seattle  
21 Department of Executive Administration.

22  
23 B. The annual registration with The City of Seattle Department of Executive  
24 Administration for weighing or measuring instruments or devices is accomplished as part of the  
25 State of Washington master license system under RCW Chapter 19.02. Payment of an annual  
26  
27  
28

1 registration fee for a weighing or measuring instrument or device under the State of Washington  
2 master license system constitutes the registration required by this section. The annual registration  
3 with The City of Seattle Department of Executive Administration for electronic pricing  
4 scanning systems is accomplished as part of The City of Seattle annual business license  
5 requirement under Seattle Municipal Code Section 5.55.030. Payment of the registration fee with  
6 the annual business license application or renewal constitutes the registration required by this  
7 section.  
8

9 C. The following annual City registration fees must be paid for each weighing or  
10 measuring instrument or device used for commercial purposes in The City of Seattle:

11 1. Weighing devices:

- 12 a. Small scales "zero to four hundred (400) pounds capacity"....\$10.00  
13 b. Intermediate scales "four hundred one (401) pounds to five thousand  
14 (5,000) pounds capacity"....\$40.00  
15 c. Large scales "over five thousand (5,000) pounds capacity"....\$75.00  
16 d. Railroad track scales....\$800.00  
17

18 2. Liquid fuel metering devices:

- 19 a. Motor fuel meters with flows of twenty (20) gallons or less per  
20 minute....\$10.00  
21 b. Motor fuel meters with flows of more than twenty (20) but not more  
22 than one hundred fifty (150) gallons per minute....\$32.00  
23  
24  
25  
26  
27  
28

1 c. Motor fuel meters with flows over one hundred fifty (150) gallons per  
2 minute....\$50.00

3 3. Liquid petroleum gas meters:

4 a. With one (1) inch diameter or smaller dispensers....\$25.00

5 b. With greater than one (1) inch diameter dispensers....\$50.00

6 4. Fabric meters....\$10.00

7 5. Cordage meters....\$10.00

8 6. Mass flow meters....\$200.00

9 7. Taxi meters....\$25.00

10 D. The following annual City registration fees must be paid for each electronic  
11  
12  
13 ~~pric((ing))e~~ scanning system used for commercial purposes in The City of Seattle:

14 1. Electronic ~~pric((ing))e~~ scanning systems with three (3) or fewer electronic  
15 pricing devices....~~\$((105.00))~~ 150.00

16 2. Electronic ~~pric((ing))e~~ scanning systems with more than three (3) electronic  
17 ~~pric((ing))e~~ scanning devices....~~\$((205.00))~~ 300.00

18  
19 E. The fees established in subsection C for registering a weighing or measuring  
20 instrument or device shall be paid to the State of Washington Department of Licensing  
21 concurrently with a master application or with the annual renewal of a master license under RCW  
22 Chapter 19.02. The fees established for electronic ~~pric((ing))e~~ scanning systems in subsection D  
23 shall be paid with The City of Seattle annual business license application or renewal.  
24  
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1 F. A weighing or measuring instrument or device, or electronic ~~pric((ing))e~~ scanning  
2 system, shall be initially registered with The City of Seattle Department of Executive  
3 Administration as follows: A weighing or measuring device is initially registered through The  
4 State of Washington Department of Licensing at the time the owner applies for a master license  
5 for a new business or at the first renewal of the license that occurs after the instrument or device  
6 is first placed into commercial use. An electronic ~~pric((ing))e~~ scanning system is initially  
7 registered through The City of Seattle Department of Executive Administration when the owner  
8 applies for an initial business license or the first renewal of the business license after the  
9 instrument or device is first placed into commercial use.  
10

11 G. The State of Washington Department of Licensing shall remit to The City of Seattle,  
12 through The State of Washington Department of Agriculture, all fees collected under this section  
13 less reasonable collection expenses.  
14

15 H. With the exception of Section 7.04.650, no person shall be required to pay more than  
16 the fee adopted under this section for any weighing or measuring instrument or device, or  
17 electronic ~~pric((ing))e~~ scanning system, in one (1) year.  
18

19 I. A person who owns a weighing or measuring instrument or device, or electronic  
20 ~~pric((ing))e~~ scanning system, and uses or permits its use for commercial purposes without  
21 registration as provided in subsection A is subject to a civil penalty of Fifty Dollars (\$50) per  
22 occurrence for each instrument or device, or system, used or permitted to be used.  
23

24 **Section 6.** Effective January 1, 2009 Section 7.04.690 of the Seattle Municipal Code is  
25 amended as follows:  
26  
27  
28

**7.04.690 Offenses and penalties.**

A. It is unlawful for any person, by himself or by his servant or agent, or as the servant or agent of another person, to:

1. Use, or have in possession for the purpose of using, for any commercial purpose specified in Section 7.04.145, or sell, offer, or expose for sale or hire, or have in possession for the purpose of selling or hiring, an incorrect weight or measure or any device or instrument used to or calculated to falsify any weight or measure, or electronically scanned price;
2. Use, or have in possession for the purpose of current use, for any commercial purpose specified in Section 7.04.145, a weighing or measuring instrument or device, or electronic price scanning system, that does not bear a seal or mark such as is specified in Section 7.04.165, unless it has been exempted from testing by the provisions of Section 7.04.145;
3. Dispose of any rejected or condemned weight or measure, or electronic price scanning system, in a manner contrary to law;
4. Remove from any weight or measure, or electronic price scanning system, contrary to law, any tag, seal, or mark placed thereon by the appropriate authority;
5. Sell, or offer or expose for sale, less than the quantity represented of any commodity, thing, or service;

1           6. Take more than the quantity represented of any commodity, thing or service  
2 when, as buyer; the person furnishes the weight or measure device by means of  
3 which the amount of the commodity, thing, or service is determined;

4           7. Keep for the purpose of sale, advertise, or offer or expose for sale, or sell, any  
5 commodity, thing, or service in a condition or manner contrary to law;

6           8. Use in retail trade, except in the preparation of packages put up in advance of  
7 sale and of medical prescriptions, a weight or measure that is not so positioned  
8 that its indications may be accurately read and the weighing or measuring  
9 operation observed from some position which may reasonably be assumed by a  
10 customer;  
11

12           9. Violate any provision of this code for which a specific penalty has not been  
13 prescribed.  
14

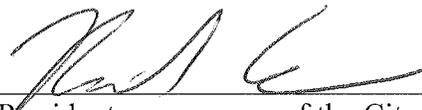
15           B. Anyone convicted of a violation of this section shall upon a first conviction thereof,  
16 be punishable by a fine of not less than Twenty Dollars (\$20.00) or more than Two Hundred  
17 Dollars (\$200.00), or by imprisonment for not more than three (3) months, or by both such fine  
18 and imprisonment; and upon a second or subsequent conviction thereof, shall be punishable by a  
19 fine of not less than Fifty Dollars (\$50.00) or more than Five Hundred Dollars (\$500.00), or by  
20 imprisonment for not more than six (6) months, or by both such fine and imprisonment.  
21

22           **Section 7.** The provisions of this ordinance are declared to be separate and severable. If  
23 one or more of the provisions of this ordinance shall be declared by any court of competent  
24

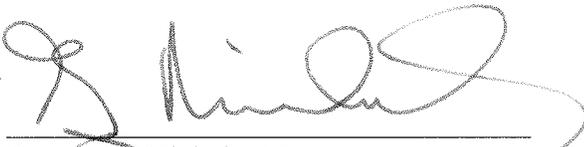
1 jurisdiction to be contrary to law, then such provision or provisions shall be null and void and  
2 severed from the rest of the ordinance, and all other provisions shall remain.

3 **Section 8.** This ordinance shall take effect and be in force thirty (30) days from and after  
4 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days  
5 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

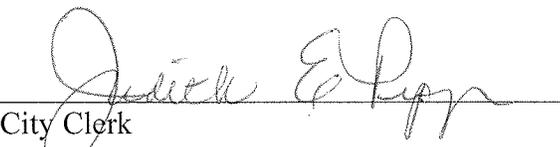
6  
7 Passed by the City Council the 24<sup>th</sup> day of November, 2008, and  
8 signed by me in open session in authentication of its passage this  
9 24<sup>th</sup> day of November, 2008.

10  
11  
12   
13 President \_\_\_\_\_ of the City Council

14 Approved by me this 2<sup>nd</sup> day of December, 2008.

15  
16   
17 Gregory J. Nickels, Mayor

18  
19 Filed by me this 4<sup>n</sup> day of December, 2008.

20  
21   
22 City Clerk

23 (Seal)

**2009-2010 BUDGET LEGISLATION FISCAL NOTE**

| Department:              | Contact Person/Phone:  | DOF Analyst/Phone:     |
|--------------------------|------------------------|------------------------|
| Executive Administration | Denise Movius/684-9259 | Lawand Anderson/3-7825 |

Legislation Title:

AN ORDINANCE relating to electronic price scanning systems; increasing the annual registration fees for electronic price scanning systems; and amending Section 7.04.038, Section 7.04.130, Section 7.04.145, Section 7.04.175, Section 7.04.645 and Section 7.04.690 of the Seattle Municipal Code, including technical corrections thereto.

- Summary of the Legislation: The proposed legislation increases the annual registration fee for electronic price scanning systems used for commercial purposes. It also changes the term “electronic pricing systems” to “electronic price scanning systems” throughout SMC Chapter 7.04. Finally, the legislation corrects a reference in an SMC Section heading that failed to acknowledge the Director of Executive Administration as the official City Sealer.
- Background: The City imposes an annual registration fee for electronic price scanning systems used for commercial purposes, pursuant to SMC Section 7.04.645 D. The registration fees were first imposed on January 1, 2003, through Ordinance 120976, and have not been increased since.

The proposed new fee schedule for electronic price scanning systems with three or fewer electronic price scanning devices is \$150 (from the current fee level of \$105) and \$300 for systems with more than three electronic price scanning devices (from the current level of \$205). There are 287 (small) retail business locations with three or fewer price scanning devices and 223 (large) retail business locations with more than three price scanning devices. The fees affect approximately 510 local businesses, and support the Consumer Affairs Unit inspection and enforcement efforts that protect consumers and ensure that local businesses are competing on a level playing field.

- *Please check one of the following:*

This legislation does not have any financial implications. (Stop here and delete the remainder of this document prior to saving and printing.)

This legislation has financial implications. Please complete all relevant sections that follow.



**Summary of Changes to Revenue Generated Specifically From This Legislation:**

|  | Revenue Source                                     | 2009 Proposed | 2010 Proposed |
|--|--|---------------|---------------|
| <b>Total Fees and Charges Resulting From Passage of This Ordinance</b> | Electronic Price Scanning System Registration Fees | \$34,000      | \$34,000      |

*Notes: When this fee was established in 2003, no complaints were received from the industry. Apparently, they fully understand that the city must recover costs associated with inspections of the electronic price scanning systems. Unannounced inspections are currently conducted within a period of approximately 18 months. Frequent re-inspections, at periods of approximately 3 months after the initial or subsequent inspection, are conducted at locations that fail an inspection. Seattle is nationally recognized as a leader among weights and measures programs in assuring pricing accuracy of electronic price scanning systems.*

**Anticipated Total Revenue from Entire Program, Including Changes Resulting From This Legislation:**

| Fund Name and Number | Revenue Source   | Total 2009 Revenue | Total 2009 and 2010 Anticipated Revenue from Entire Program |
|----------------------|--|--------------------|---|
| General Fund 00100   | Weights and Measures Device Registration Fees (SMC 7.04.645C)      | \$94,000           | \$188,000   |
|                      | Electronic Price Scanning System Registration Fees (SMC 7.04.645D) | \$110,000          | \$220,000   |
| <b>TOTAL</b>         |  | <b>\$204,000</b>   | <b>\$408,000</b>  |

- What is the financial cost of not implementing this legislation? The City would forgo approximately \$34,000 in additional annual fee revenue.
  - What are the possible alternatives to the legislation that could achieve the same or similar objectives? None. Fees set by ordinance must be amended by ordinance.
  - Is the legislation subject to public hearing requirements? No special public hearings.
  - Other Issues: None.
- Please list attachments to the fiscal note below: None.



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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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232351  
CITY OF SEATTLE, CLERKS OFFICE

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122845 ORDINANCE

was published on

12/11/08

The amount of the fee charged for the foregoing publication is the sum of \$ 449.60, which amount has been paid in full.



Affidavit of Publication

*Mal*  
\_\_\_\_\_  
Subscribed and sworn to before me on  
12/11/08 *John Palmer*  
\_\_\_\_\_  
Notary public for the State of Washington,  
residing in Seattle

