

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

328



**FROM:** Agricultural Commissioner

**SUBMITTAL DATE:**  
July 15 2005

**SUBJECT:** Weights and Measures Scanner Inspection Program Report.

**RECOMMENDED MOTION:** That the Board of Supervisors receive and file the attached report.

**BACKGROUND:** Scanner device systems (automated point of sale systems) are used for retail commodity pricing. Scanners have become very common, and as such, consumers often trust that the price recorded by a scanner accurately reflects the price marked or advertised. However, previous price verification surveys conducted by the State of California, Division of Measurement Standards revealed that compliance rates of retail establishments within Riverside County were well below statewide averages.

On June 8, 2004, agenda item 9.1, your Board adopted Ordinance 832 which established a program to identify, inspect and register retail scanning devices and pre-packaged commodity operations. These important consumer protection related activities had gone largely unregulated in Riverside County due to an absence of state and federal funding. In addition to Ordinance adoption, staff was directed to report back on the program at the end of one year of implementation on the validity of the inspection data and program effectiveness, as well as to review and report back on the concept of a preferred customer fee structure, wherein those registrants having repeat violations would be subject to a higher fee than those with higher rates of compliance.

*John Snyder*

**John Snyder**, Agricultural Commissioner/  
Sealer of Weights and Measures

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	In Current Year Budget:
	Current F.Y. Net County Cost:	Budget Adjustment:
	Annual Net County Cost:	For Fiscal Year: 2005/06

<b>SOURCE OF FUNDS:</b>	Positions To Be Deleted Per A-30
	Requires 4/5 Vote

**C.E.O. RECOMMENDATION:** **APPROVE**

**County Executive Office Signature** *Henry G. Pfunt*

Policy  Policy  
Consent  Consent  
Dept Recomm.: Per Exec. Ofc.:

**Prev. Agn. Ref.:** 9.1 on 6/8/04 | **District:** All | **Agenda Number:**

July 15, 2005

**WEIGHTS & MEASURES SCANNER INSPECTION PROGRAM REPORT**

Approximately one year ago, the Riverside County Board of Supervisors authorized the office of the Agricultural Commissioner/Sealer of Weights and Measures to develop, implement and administer a price verification (scanner) program, to protect both consumers and businesses in Riverside County. Ordinance 832, the Consumer Protection Business Permit Ordinance, was unanimously approved on June 8, 2004, and became effective on July 8, 2004. Eleven other counties (including most Southern California counties) have enacted similar programs.

Given the current, dramatic growth of businesses within Riverside County, we have positively identified 32% more businesses using scanner systems than during our initial pre-program surveys. To date, the Division of Weights & Measures has identified and registered 2,411 retail businesses within Riverside County that utilize scanner systems. Approximately two-thirds of these stores possess three or less scanner device stations. Conversely, larger stores with ten or more scanners make up only about eight percent of the retail business population.

Through the end of May 2005, a total of 1,089 scanner inspections have been conducted since the program began to be implemented in July of 2004. These inspections have resulted in a total of 491 Notice of Violations being issued due to pricing overcharges. This means that 45% of the inspected locations yielded at least one overcharge during our inspection. Although this result shows that there is much room for improvement in the future, it is actually better than the 52% overcharge rate that resulted from the state audit conducted during 2002/03, prior to this program's adoption.

Another way to evaluate overall pricing compliance is to look at the "accuracy error rate", which represents the total number of all items found with pricing errors, divided by the total number of items inspected. Of the 1,089 inspections conducted to date, the accuracy error rate was found to be 7.7%. Again, this result indicates that there is considerable room for improvement as this program continues to progress.

Retailers that are inspected and found with overcharges are issued a Notice of Violation. If the violation results at a business that has not previously been inspected, then we take this opportunity to educate the manager and appropriate employees regarding the overall program, and in these cases, a penalty (civil penalty action) is not proposed. Specific follow-up inspections will be conducted after the first inspection for businesses found with pricing errors.

Per the Business and Professions Code, when an individual overcharge is more than \$1.00 over the posted or advertised price, the violation represents a misdemeanor, which may carry a maximum fine of \$1,000.00. When an individual overcharge is less than \$1.00, the violation is an infraction and is punishable by a fine of no more than \$100.00.

Our office has analyzed the concept regarding a registration fee schedule that rewards compliant businesses and penalizes repeat violators. In so doing, we have also consulted with Scanner Program managers from other counties. Some counties have considered charging non-complaint businesses a per hour fee for follow-up inspections associated with violations, in addition to their normal registration fee. At this time, because non-compliant business are already subject to possible civil penalty actions (fines) for repeat violations, there is already a financial incentive to maintain compliance. We will however continue to evaluate this issue as the program evolves and we are willing to consider other potential strategies.

Outreach and education is a core component of this program. The importance of an informed and alert public cannot be overstated. The public's awareness of the requirement that a store must, by law, charge the lowest advertised or posted price for a commodity, can have a dramatic and positive affect on accurate retail pricing. The public has been informed of our program by both newspaper articles as well as via televised news stories. The Agricultural Commissioner's Office website is also being utilized to disseminate related information and consumer complaint forms, which can be downloaded and faxed or mailed to the Division of Weights and Measures office. The office can also be contacted by e-mail. Additionally, our office phone number is displayed on the "official county seal" which is affixed to each scanner station price display unit. Other outreach activities include distributing consumer protection pamphlets at the front counters of our countywide office locations, as well as providing consumer displays during various public functions such as at fairs and expositions. The Agricultural Commissioner's Office regularly receives and responds to consumer complaint issues regarding scanning and false advertising. Many of the complaints are replicated by our inspectors and thus are found to be valid.

One crucial objective of this program is to demonstrate to retailers that accurate pricing helps everyone concerned. Accurate, fair, and consistent pricing practices can result in a positive business reputation that in turn generates an atmosphere of consumer confidence and loyalty. Outreach to the retailers to assist them in achieving compliance has been conducted with several large chains stores and will continue on an "as needed" basis. Outreach to the smaller convenience store owners and retail shops continues on a daily basis. The first initial inspections are an awareness opportunity for the retailer to become familiar with the laws, ordinance, and with our inspection procedures. During the first year of this program, we have identified a number of locations that have been reluctant or that have refused (initially) to allow us to inspect their premises, or to complete the inspection. These locations have required a more sensitive and intensive "public relations" approach. Our outreach to these businesses has included providing them with copies of the relevant Business and Professions Code Sections, a copy of the Ordinance, and to thoroughly explain the intent of the program and the specific inspection procedures involved.

In summary, the first year of the program has been successful in a number of ways. We have staffed and trained a competent and well coordinated team of inspectors. Consumers are becoming more familiar with the legal requirements of accurate pricing through our outreach efforts. As consumers become more knowledgeable, they begin to take a more active role in reporting their questionable purchases to our office. Accurate pricing and accurate advertising result in fair and meaningful comparative pricing, thereby allowing consumers to make informed decisions regarding whether or not to purchase a given product from a given store. Similarly, the retail business community is being (for the first time in many instances) informed about the regulatory requirements of this program and the importance of consistent, accurate pricing.

The Agricultural Commissioner's office commends the Board for their strong commitment to protecting the consumers and businesses within Riverside County. With continued support, we will continue to pursue and promote accurate retail pricing practices, with a focus on education and outreach, to the benefit of all Riverside County consumers and businesses alike.