

1 IN THE HOUSE

BY RULES COMMITTEE
BY REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 50

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing standards of weights
7 and measures; providing for a state director
8 of weights and measures and defining his
9 powers and duties; providing for city seal-
10 ers of weights and measures; providing for
11 the inspection, testing and sealing of
12 appliances used for weighing and measuring;
13 providing for the marking of packages con-
14 taining commodities; providing penalties for
15 violations of the provisions of this Act;
16 repealing Secs. 35-5-1 through 35-5-11,
17 ACLA 1949, as amended by Ch. 94, SLA 1951,
18 Ch. 85, SLA 1955, and Ch. 143, SLA 1957;
19 and providing for an effective date."

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

21 Section 1. SHORT TITLE. This Act shall be known and may be
22 cited as the "Alaska Weights and Measures Act."

23 Sec. 2. MEANING OF TERMS. When used in this Act:

24 a. "Person" means both the plural and singular, as the case
25 demands, and shall include individuals, partnerships, corpora-
26 tions, companies, societies, and associations.

27 b. "Weight(s) and (or) measure(s)" means all weights and
28 measures of every kind, instruments and devices for weighing and
29 measuring, and any appliances and accessories associated with any

1 or all such instruments and devices, except that the term shall
2 not be construed to include meters for the measurement of elec-
3 tricity, gas (natural or manufactured), or water when the same are
4 operated in a public utility system. Such electricity, gas, and
5 water meters are hereby specifically excluded from the purview of
6 this Act, and none of the provisions of this Act shall be con-
7 strued to apply to such meters or to any appliances or accessories
8 associated therewith.

9 c. "Sell" and "sale" means barter and exchange.

10 d. "Director" and "deputy director" means, respectively, the
11 state director of weights and measures and the deputy state dir-
12 ector of weights and measures.

13 e. "Inspector" means a state inspector of weights and mea-
14 sures.

15 f. "Sealer" and "deputy sealer" means, respectively, a seal-
16 er of weights and measures and a deputy sealer of weights and mea-
17 sures of a city.

18 g. "Intrastate commerce" means any and all commerce or trade
19 that is begun, carried on, and completed wholly within the limits
20 of the State of Alaska.

21 h. "Commodity in package form" means commodity put up or
22 packaged in any manner in advance of sale in units suitable for
23 either wholesale or retail sale, exclusive, however, of an auxili-
24 ary shipping container enclosing packages that individually con-
25 form to the requirements of this Act. An individual item or lot
26 of any commodity not in package form as defined in this section,
27 but on which there is marked a selling price based on an estab-
28 lished price per unit of weight or of measure, shall be construed
29 to be commodity in package form.

1 Sec. 3. SYSTEMS OF WEIGHTS AND MEASURES. The system of
2 weights and measures in customary use in the United States and
3 the metric system of weights and measures are jointly recognized,
4 and one or the other of these systems shall be used for all
5 commercial purposes in the State of Alaska. The definitions of
6 basic units of weight and measure, the tables of weight and
7 measure, and weights and measures equivalents, as published by
8 the National Bureau of Standards, are recognized and shall govern
9 weighing and measuring equipment and transactions in the state.

10 Sec. 4. DEFINITIONS OF SPECIAL UNITS OF MEASURE. The term
11 "barrel," when used in connection with fermented liquor, means a
12 unit of 31 gallons. The term "ton" means a unit of 2,000 pounds
13 avoirdupois weight. The term "cord," when used in connection
14 with wood intended for fuel purposes, means the amount of wood
15 that is contained in a space of 128 cubic feet when the wood is
16 ranked and well stowed.

17 Sec. 5. STATE STANDARDS OF WEIGHT AND MEASURE. Such
18 weights and measures in conformity with the standards of the
19 United States as have been supplied to the state by the Federal
20 Government or otherwise obtained by the state for use as state
21 standards shall, when the same shall have been certified as being
22 satisfactory for use as such by the National Bureau of Standards,
23 be the state standards of weight and measure. The state standard
24 shall be kept in a safe and suitable place in the office or
25 laboratory of the State Division of Weights and Measures, they
26 shall not be removed from the said office or laboratory except
27 for repairs or for certification, and they shall be submitted at
28 least once in ten years to the National Bureau of Standards for
29 certification. The state standards shall be used only in

1 verifying the office standards and for scientific purposes.

2 Sec. 6. OFFICE AND WORKING STANDARDS AND EQUIPMENT. In
3 addition to the state standards provided for in Sec. 5 of this
4 Act, there shall be supplied by the state at least one complete
5 set of copies of these to be kept in the office or laboratory of
6 the State Division of Weights and Measures and to be known as
7 "office standards," and also such "field standards" and such equip-
8 ment as may be found necessary to carry out the provisions of this
9 Act. The office standards and field standards shall be verified
10 upon their initial receipt and at least once each year thereafter,
11 the office standards by direct comparison with the state standards
12 and the field standards by comparison with the office standards.

13 Sec. 7. STATE DIRECTOR, DEPUTY DIRECTOR, AND INSPECTORS OF
14 WEIGHTS AND MEASURES. There shall be a state director of weights
15 and measures. The Commissioner of the Department of Commerce
16 shall be, ex officio, the director. The director may appoint a
17 deputy director, state inspectors, and any other persons necessary
18 to carry out the provisions of this Act.

19 Sec. 8. GENERAL POWERS AND DUTIES OF DIRECTOR. The director
20 shall have the custody of the state standards of weight and mea-
21 sure and of the other standards and equipment provided for by this
22 Act, and shall keep accurate records of the same. The director
23 shall enforce the provisions of this Act. He shall have and keep
24 a general supervision over the weights and measures offered for
25 sale, sold, or in use in the state.

26 Sec. 9. SPECIFIC POWERS AND DUTIES OF DIRECTOR: REGULATIONS.
27 The director shall issue from time to time, pursuant to the
28 Administrative Procedure Act, reasonable regulations for the
29 enforcement of this Act, which regulations shall have the force and

1 effect of law. These regulations may include (1) standards of net
2 weight, measure, or count, and reasonable standards of fill, for
3 any commodity in package form; (2) rules governing the technical
4 and reporting procedures to be followed, and the report and record
5 forms and marks of approval and rejection to be used, by inspec-
6 tors of weights and measures in the discharge of their official
7 duties; (3) exemptions from the sealing or marking requirements of
8 Sec. 15 of this Act with respect to weights and measures of such
9 character or size that such sealing or marking would be inappro-
10 priate, impracticable, or damaging to the apparatus in question;
11 and (4) with respect to classes of weights and measures found to
12 be of such character that annual retesting is unnecessary to con-
13 tinued accuracy, exemptions from the requirements of Secs. 10 and
14 11 of this Act for annual testing, and schedules fixing the fre-
15 quency of required retests for classes of devices so exempted.
16 These regulations shall include specifications, tolerance, and
17 regulations for weights and measures of the character of those
18 specified in Sec. 11 of this Act, designed to eliminate from use,
19 without prejudice to apparatus that conforms as closely as prac-
20 ticable to the official standards, those (1) that are not accu-
21 rate, (2) that are of such construction that they are faulty--that
22 is, that are not reasonably permanent in their adjustment or will
23 not repeat their indications correctly--or (3) that facilitate the
24 perpetration of fraud. The specifications, tolerances, and regu-
25 lations for commercial weighing and measuring devices, together
26 with amendments thereto, as recommended by the National Bureau of
27 Standards and published in National Bureau of Standards Handbook
28 44 and supplements thereto, or in any publication revising or
29 superseding Handbook 44, shall be the specifications, tolerances,

1 and regulations for commercial weighing and measuring devices of
2 the State of Alaska, except insofar as specifically modified,
3 amended, or rejected by a regulation issued by the director. For
4 the purposes of this Act, apparatus shall be deemed to be "correct"
5 when it conforms to all applicable requirements promulgated as
6 specified in this section; other apparatus shall be deemed to be
7 "incorrect."

8 Sec. 10. SAME: TESTING OF STANDARDS: TESTING AT STATE-
9 SUPPORTED INSTITUTIONS. The director, at least once every five
10 years, shall test the standards of weight and measure procured by
11 any city for which the appointment of a sealer of weights and
12 measures is provided by this Act, and shall approve the same when
13 found to be correct, and he shall inspect such standards at least
14 once every two years. He shall from time to time test all weights
15 and measures used in checking the receipt or disbursement of sup-
16 plies in every institution for the maintenance of which monies are
17 appropriated by the legislature, reporting his findings, in writ-
18 ing, to the supervisory board and to the executive officer of the
19 institution concerned.

20 Sec. 11. SAME: GENERAL TESTING. When not otherwise provided
21 by law, the director shall have the power to inspect and test,
22 to ascertain if they are correct, all weights and measures kept,
23 offered, or exposed for sale. It shall be the duty of the director,
24 at least annually and as much oftener as he may deem necessary,
25 to inspect and test, to ascertain if they are correct, all weights
26 and measures commercially used (1) in determining the weight,
27 measurement, or count of commodities or things sold, or
28 offered or exposed for sale, on the basis of weight or of measure;
29 (2) in computing the basic charge or payment for services rendered

1 on the basis of weight or of measure; or (3) in determining weight
2 or measurement when a charge is made for such determination;
3 provided, that with respect to single-service devices--that is,
4 devices designed to be used commercially only once and to be then
5 discarded--and with respect to devices uniformly mass-produced, as
6 by means of a mold or die, and not susceptible of individual ad-
7 justment, the inspection and testing of each individual device
8 shall not be required and the inspecting and testing requirements
9 of this section will be satisfied when inspections and tests are
10 made on representative samples of such devices; and the lots of
11 which such samples are representative shall be held to be correct
12 or incorrect upon the basis of the results of the inspections and
13 tests on such samples.

14 Sec. 12. SAME: INVESTIGATIONS. The director shall investi-
15 gate complaints made to him concerning violations of the provisions
16 of this Act, and shall, upon his own initiative, conduct such in-
17 vestigations as he deems appropriate and advisable to develop in-
18 formation on prevailing procedures in commercial quantity deter-
19 mination and on possible violations of the provisions of this Act
20 and to promote the general objective of accuracy in the determi-
21 nation and representation of quantity in commercial transactions.

22 Sec. 13. SAME: INSPECTION OF PACKAGES. The director shall,
23 from time to time, weigh or measure and inspect packages or amounts
24 of commodities kept, offered, or exposed for sale, sold, or in the
25 process of delivery, to determine whether the same contain the
26 amounts represented and whether they be kept, offered, or exposed
27 for sale, or sold, in accordance with law; and when such packages
28 or amounts of commodities are found not to contain the amounts
29 represented, or are found to be kept, offered, or exposed for sale

1 in violation of law, the director may order them off sale and may
2 so mark or tag them as to show them to be illegal. In carrying
3 out the provisions of this section, the director may employ recog-
4 nized sampling procedures under which the compliance of a given
5 lot of packages will be determined on the basis of the result
6 obtained on a sample selected from and representative of such lot.
7 No person shall (1) sell, or keep, offer, or expose for sale in
8 intrastate commerce any package or amount of commodity that has
9 been ordered off sale or marked or tagged as provided in this sec-
10 tion unless and until such package or amount of commodity has been
11 brought into full compliance with all legal requirements; or (2)
12 dispose of any package or amount of commodity that has been
13 ordered off sale or marked or tagged as provided in this section
14 and that has not been brought into compliance with legal require-
15 ments, in any manner except with the specific approval of the
16 director.

17 Sec. 14. SAME: STOP-USE, STOP-REMOVAL, AND REMOVAL ORDERS.
18 The director shall have the power to issue stop-use orders, stop-
19 removal orders, and removal orders with respect to weights and
20 measures being, or susceptible of being, commercially used, and to
21 issue stop-removal orders and removal orders with respect to pack-
22 ages or amounts of commodities kept, offered, or exposed for sale,
23 sold, or in process of delivery, whenever in the course of his en-
24 forcement of the provisions of this Act he deems it necessary or
25 expedient to issue such orders, and no person shall use, remove
26 from the premises specified, or fail to remove from the premises
27 specified any weight, measure, or package or amount of commodity
28 contrary to the terms of a stop-use order, stop-removal order, or
29 removal order issued under the authority of this section.

1 Sec. 15. SAME: DISPOSITION OF CORRECT AND INCORRECT APPA-
2 RATUS. The director shall approve for use and seal or mark with
3 appropriate devices such weights and measures as he finds upon
4 inspection and test to be "correct" as defined in Sec. 9 of this
5 Act, and shall reject and mark or tag as "rejected" such weights
6 and measures as he finds, upon inspection or test, to be "incor-
7 rect" as defined in Sec. 9 of this Act, but which in his best
8 judgment are susceptible of satisfactory repair: provided, that
9 such sealing or marking shall not be required with respect to such
10 weights and measures as may be exempted therefrom by a regulation
11 of the director issued under the authority of Sec. 9 of this Act.
12 The director shall condemn, and may seize and may destroy, weights
13 and measures found to be incorrect that, in his best judgment, are
14 not susceptible of satisfactory repair. Weights and measures that
15 have been rejected may be confiscated and may be destroyed by the
16 director if not corrected as required by Sec. 21 of this Act or
17 if used or disposed of contrary to the requirements of Sec. 21 of
18 this Act.

19 Sec. 16. SAME: POLICE POWERS: RIGHT OF ENTRY AND STOPPAGE.
20 With respect to the enforcement of this Act and any other Acts
21 dealing with weights and measures that he is, or may be, empowered
22 to enforce, the director is hereby vested with special police
23 powers, and is authorized to arrest, without formal warrant, any
24 violator of the said Acts, and to seize for use as evidence, with-
25 out formal warrant, incorrect or unsealed weights and measures or
26 amounts or packages of commodity, found to be used, retained,
27 offered or exposed for sale, or sold in violation of law. In the
28 performance of his official duties, the director is authorized to
29 enter and go into or upon, without formal warrant, any structure

1 or premises, and to stop any person whatsoever and to require him
2 to proceed, with or without any vehicle of which he may be in
3 charge, to some place which the director may specify.

4 Sec. 17. POWERS AND DUTIES OF DEPUTY DIRECTOR AND INSPECTOR.

5 The powers and duties given to and imposed upon the director by
6 Secs. 10, 11, 12, 13, 14, 15, 16, 20, and 39 of this Act are here-
7 by given to and imposed upon the deputy director and inspectors
8 also, when acting under the instructions and at the direction of
9 the director.

10 Sec. 18. CITIES: APPOINTMENT OF SEALERS AND DEPUTY SEALERS
11 OF WEIGHTS AND MEASURES: STANDARDS AND EQUIPMENT. Cities may

12 appoint a sealer of weights and measures, and such deputy sealers
13 of weights and measures as may be required. Where a sealer has
14 been so appointed, there shall be procured at the expense of the
15 city such standards of weights and measures and such additional
16 equipment, to be used for the enforcement of the provisions of
17 this Act in such city, as may be prescribed by the director.

18 When the standards of weight and measure required by this section
19 to be provided by a city shall have been examined and approved by
20 the director, they shall be the official standards for such city.
21 It shall be the duty of the sealer to make, or to arrange to have
22 made, at least as frequently as every five years, comparisons be-
23 tween his field standards and appropriate standards of a higher
24 order belonging to his city or to the state, in order to maintain
25 such field standards in accurate condition.

26 Sec. 19. CITY SEALERS AND DEPUTY SEALERS. The sealer of a
27 city, and his deputy sealers when acting under his instructions
28 and at his direction, shall have the same powers and shall perform
29 the same duties within the city for which appointed as are granted

1 to and imposed upon the director by Secs. 11, 12, 13, 14, 15, 16,
2 and 39 of this Act.

3 Sec. 20. CONCURRENT JURISDICTION. In cities for which seal-
4 ers of weights and measures have been appointed as provided for
5 in this Act, the director shall have concurrent authority to en-
6 force the provisions of this Act.

7 Sec. 21. DUTY OF OWNERS OF INCORRECT APPARATUS. Weights and
8 measures that have been rejected under the authority of the dir-
9 ector or of a sealer shall remain subject to the control of the
10 rejecting authority until such time as suitable repair or disposi-
11 tion thereof has been made as required by this section. The own-
12 ers of such rejected weights and measures shall cause the same to
13 be made correct within 30 days or such longer period as may be
14 authorized by the rejecting authority; or, in lieu of this, may
15 dispose of the same, but only in such manner as is specifically
16 authorized by the rejecting authority. Weights and measures that
17 have been rejected shall not again be used commercially until they
18 have been officially reexamined and found to be correct or until
19 specific written permission for such use is issued by the reject-
20 ing authority.

21 Sec. 22. METHOD OF SALE OF COMMODITIES: GENERAL. Commodi-
22 ties in liquid form shall be sold only by liquid measure or by
23 weight, and, except as otherwise provided in this Act, commodities
24 not in liquid form shall be sold only by weight, by measure of
25 length or area, or by count: provided, that liquid commodities
26 may be sold by weight and commodities not in liquid form may be
27 sold by count only if such methods give accurate information as
28 to the quantity of commodity sold: and provided further, that the
29 provisions of this section shall not apply (1) to commodities when

1 sold for immediate consumption on the premises where sold, (2) to
2 vegetables when sold by the head or bunch, (3) to commodities in
3 containers standardized by a law of this state or by federal law,
4 (4) to berries and small fruits when sold by dry measure in con-
5 formance with Sec. 35 of this Act, (5) to commodities in package
6 form when there exists a general consumer usage to express the
7 quantity in some other manner, (6) to concrete aggregates, concrete
8 mixtures, and loose solid materials such as earth, soil, gravel,
9 crushed stone, and the like, when sold by cubic measure, or (7)
10 to unprocessed vegetable and animal fertilizer when sold by cubic
11 measure. The director may issue such reasonable regulations as
12 are necessary to assure that amounts of commodity sold are deter-
13 mined in accordance with good commercial practice and are so
14 determined and represented as to be accurate and informative to
15 all parties at interest.

16 Sec. 23. SAME: PACKAGES: DECLARATIONS OF QUANTITY AND
17 ORIGIN: TOLERANCES; EXEMPTIONS. Except as otherwise provided in
18 this Act, any commodity in package form introduced or delivered
19 for introduction into or received in intrastate commerce, kept for
20 the purpose of sale, or offered or exposed for sale in intrastate
21 commerce shall bear on the outside of the package a definite,
22 plain, and conspicuous declaration of (1) the net quantity of the
23 contents in terms of weight, measure, or count, and (2) in the
24 case of any package kept, offered, or exposed for sale, or sold in
25 any place other than on the premises where packed, the name and
26 place of business of the manufacturer, packer, or distributor:
27 provided, that in connection with the declaration required under
28 clause (1), neither the qualifying term "when packed" or any words
29 of similar import, nor any term qualifying a unit of weight, mea-

1 sure, or count (for example "jumbo," "giant," "full," and the
2 like) that tends to exaggerate the amount of commodity in a pack-
3 age, shall be used: and provided further, that under clause (1)
4 the director shall, by regulation, establish (a) reasonable vari-
5 ations or tolerances to be allowed, which may include variations
6 below the declared weight or measure caused by ordinary and cus-
7 tomary exposure, only after the commodity is introduced into intra-
8 state commerce, to conditions that normally occur in good distri-
9 bution practice and that unavoidably result in decreased weight
10 or measure, (b) exemption as to small packages, and (c) exemptions
11 as to commodities put up in variable weights or sizes for sale to
12 the consumer intact and either customarily not sold as individual
13 units or customarily weighed or measured at time of sale to the
14 consumer.

15 Sec. 24. SAME: DECLARATIONS OF UNIT PRICE ON RANDOM PACKAGES.

16 In addition to the declarations required by Sec. 23 of this Act,
17 any commodity in package form, the package being one of a lot con-
18 taining random weights, measures, or counts of the same commodity
19 and bearing the total selling price of the package, shall bear on
20 the outside of the package a plain and conspicuous declaration of
21 the price per single unit of weight, measure, or count.

22 Sec. 25. SAME: MISLEADING PACKAGES. No commodity in package
23 form shall be so wrapped, nor shall it be in a container so made,
24 formed, or filled, as to mislead the purchaser as to the quantity
25 of the contents of the package, and the contents of a container
26 shall not fall below such reasonable standard of fill as may have
27 been prescribed for the commodity in question by the director.

28 Sec. 26. SALE BY NET WEIGHT. The word "weight" as used in
29 this Act in connection with any commodity shall mean net weight.

1 Whenever any commodity is sold on the basis of weight, the net
2 weight of the commodity shall be employed, and all contracts
3 concerning commodities shall be so construed.

4 Sec. 27. MISREPRESENTATION OF PRICE. Whenever any commodity
5 or service is sold, or is offered, exposed, or advertised for
6 sale, by weight, measure, or count, the price shall not be
7 misrepresented, nor shall the price be represented in any manner
8 calculated or tending to mislead or deceive an actual or
9 prospective purchaser. Whenever an advertised, posted, or
10 labeled price per unit of weight, measure, or count includes
11 a fraction of a cent, all elements of the fraction shall be
12 prominently displayed and the numeral or numerals expressing the
13 fraction shall be immediately adjacent to, of the same general
14 design and style as, and at least one-half the height and width
15 of the numerals representing the whole cents.

16 Sec. 28. MEAT, POULTRY, AND SEA FOOD. All meat, meat
17 products, poultry (whole or parts), and all sea food except
18 shellfish, offered or exposed for sale or sold as food,
19 shall be offered or exposed for sale and sold by unit
20 or weight. When meat, poultry, or sea food is combined
21 with or associated with some other food element or
22 elements to form either a distinctive food product or a
23 food combination, such food product or combination shall
24 be offered or exposed for sale and sold by unit or weight.

25 Sec. 29. BREAD. Each loaf of bread and each unit of
26 a twin or multiple loaf made or procured for sale, kept,
27 offered, exposed for sale, or sold, whether or not the bread
28 is wrapped or sliced, shall weigh 1/2 pound, 1 pound, 1-1/2 pounds,
29 or a multiple of 1 pound, avoirdupois weight, within reasonable

1 variations or tolerances that shall be promulgated by
2 regulation by the director: provided, that the provisions of
3 this section shall not apply to biscuits, buns, or rolls,
4 weighing 4 ounces or less, or to "stale bread" sold and
5 expressly represented at the time of sale as such, and that the
6 marking provisions of Sec. 23, shall not apply to unwrapped
7 loaves of bread.

8 Sec. 30. BUTTER, OLEOMARGARINE, AND MARGARINE. Butter,
9 oleomargarine, and margarine shall be offered and exposed for
10 sale and sold by weight and only in units of 1/4 pound, 1/2
11 pound, 1 pound, or multiples of 1 pound, avoirdupois weight.

12 Sec. 31. FLUID DAIRY PRODUCTS. All fluid dairy products,
13 including but not limited to whole milk, skimmed milk, cultured
14 milk, sweet cream, sour cream, and buttermilk, shall be
15 packaged for retail sale only in units of 1 gill, 1/2 liquid
16 pint, 10 fluid ounces, 1 liquid pint, 1 liquid quart, 1/2 gallon,
17 1 gallon, or multiples of 1 gallon: provided, that packages in
18 units of less than 1 gill shall be permitted.

19 Sec. 32. FLOUR, CORN MEAL, AND HOMINY GRITS. When in
20 package form, and when packed, kept, offered, or exposed for
21 sale or sold, wheat flour, whole wheat flour, graham flour,
22 self-rising wheat flour, phosphated wheat flour, bromated
23 flour, enriched flour, enriched self-rising flour, enriched
24 bromated flour, corn flour, corn meal, and hominy grits shall be
25 packaged only in units of 3, 5, 10, 25, 50, or 100 pounds, avoird-
26 dupois weight: provided, that packages in units of less than
27 3 pounds or more than 100 pounds shall be permitted.

28 Sec. 33. COAL, COKE, AND CHARCOAL. All coal, coke and
29 charcoal shall be sold by weight. Unless the fuel is delivered

1 to the purchaser in package form, each delivery of coal, coke,
2 or charcoal to an individual purchaser shall be accompanied
3 by duplicate delivery tickets on which, in ink or other
4 indelible substance, there shall be clearly stated (1) the
5 name and address of the vendor, (2) the name and address of the
6 purchaser, and (3) the net weight of the delivery and the gross
7 and tare weights from which the net weight is computed, each
8 expressed in pounds. One of these tickets shall be retained by the
9 vendor and the other shall be delivered to the purchaser at
10 the time of delivery of the fuel, or shall be surrendered, on
11 demand, to the director, or the deputy director or an inspector,
12 or a sealer or deputy sealer, who, if he desires to retain it
13 as evidence, shall issue a weight slip in lieu thereof for
14 delivery to the purchaser: provided, that if the purchaser
15 carries away his purchase, the vendor shall be required only
16 to give to the purchaser at the time of sale a delivery ticket
17 stating the number of pounds of fuel delivered to him.

18 Sec. 34. TEXTILE PRODUCTS. It shall be unlawful to keep
19 for the purpose of sale, offer or expose for sale, or sell
20 any textile yard goods put up or packaged in advance of sale in a
21 bolt or roll, or any other textile product put up or packaged in ad-
22 vance of sale in any other unit, for either wholesale or
23 retail sale, unless such bolt or roll, or such other unit, be
24 definitely, plainly, and conspicuously marked to show its net
25 measure in terms of yards or its net weight in terms of avoird-
26 dupois pounds or ounces, subject, however, to the following
27 limitations and requirements:

28 a. Any unit of twine or cordage may be marked to show its
29 net measure in terms of feet. Ready-wound bobbins that are

1 not sold separately shall not be required to be individually
2 marked, but the package containing such bobbins shall be
3 marked to show the number of bobbins contained therein and
4 the net weight or measure of the thread on each bobbin.
5 Any unit of sewing, basting, mending, darning, crocheting,
6 tatting, hand-knitting, or embroidery thread or yarn,
7 except nylon hand-knitting yarn, that is not composed in
8 whole or in part of wool, the net weight of which is
9 less than two ounces avoirdupois, shall be marked to show its
10 net measure in terms of yards as unwound from the ball or
11 from the spool or other holder. Any retail unit of a
12 textile product, sold only for household use, consisting of
13 a package containing two or more similar individual units that
14 are not sold separately, shall be marked to show the
15 number of individual units in the package and the net weight
16 or net measure of the product in each individual unit, but
17 this proviso shall not apply where the individual units are
18 separately marked. Any unit of yarn, composed in whole or
19 in part of wool, sold to consumers for handiwork, shall be
20 marked to show the net weight of such yarn, except that any
21 such unit of tapestry, mending, or embroidery yarn, the net
22 measure of which does not exceed fifty yards, may be
23 marked to show its linear measure only.

24 b. The marking required by this section shall in all
25 cases be in combination with the name and place of business
26 of the manufacturer, packer, or distributor of the product,
27 or a trade-mark, symbol, brand, or other mark that positively
28 identifies such manufacturer, packer, or distributor.

29 c. Reasonable tolerances shall be permitted, and these

1 shall be included in regulations for the enforcement of the
2 provisions of this section that shall be issued by the director.

3 d. The provisions of this section shall not apply to the
4 following textile products when sold at wholesale in bulk
5 by net weight: cordage, agricultural bag sewing threads,
6 twines, yarns that are to be processed, and yarns that
7 are to be industrially converted into end use products.

8 Sec. 35. BERRIES AND SMALL FRUITS. Berries and small
9 fruits shall be offered and exposed for sale and sold by
10 weight, or by measure in open containers having capacities
11 of 1/2 dry pint, 1 dry pint, or 1 dry quart: provided, that
12 the marking provisions of Sec. 23 of this Act shall not apply
13 to such containers.

14 Sec. 36. CONSTRUCTION OF CONTRACTS. Fractional parts of any
15 unit of weight or measure shall mean like fractional parts of the
16 value of such unit as prescribed or defined in Secs 3 and 4 of
17 this Act, and all contracts concerning the sale or commodities
18 and services shall be construed in accordance with this requirement.

19 Sec. 37. HINDERING OR OBSTRUCTING OFFICER; PENALTIES. Any
20 person who shall hinder or obstruct in any way the director,
21 the deputy director, or any one of the inspectors, or a sealer
22 or deputy sealer, in the performance of his official duties, shall
23 be guilty of a misdemeanor, and upon conviction thereof, shall
24 be punished by a fine of not less than \$20.00 or more than \$200.00,
25 or by imprisonment for not more than 3 months, or by both such fine
26 and imprisonment.

27 Sec. 38. IMPERSONATION OF OFFICER; PENALTIES. Any person
28 who shall impersonate in any way the director, the deputy director,
29 or any one of the inspectors, or a sealer or deputy sealer, by the

1 use of his seal or a counterfeit of his seal, or in any other man-
2 ner, shall be guilty of a misdemeanor, and upon conviction thereof
3 shall be punished by a fine of not less than \$100.00 or more than
4 \$500.00, or by imprisonment for not more than 1 year, or by both
5 such fine and imprisonment.

6 Sec. 39. OFFENSES AND PENALTIES. Any person who, by himself
7 or by his servant or agent, or as the servant or agent of another
8 person, performs any one of the acts enumerated in Subsecs. a.
9 through i. of this section shall be guilty of a misdemeanor and,
10 upon a first conviction thereof, shall be punished by a fine of
11 not less than \$20.00 or more than \$200.00, or by imprisonment for
12 not more than 3 months, or by both such fine and imprisonment; and
13 upon a second or subsequent conviction thereof, he shall be pun-
14 ished by a fine of not less than \$50.00 or more than \$500.00, or
15 by imprisonment for not more than 1 year, or by both such fine
16 and imprisonment.

17 a. Use or have in possession for the purpose of using for
18 any commercial purpose specified in Sec. 11, sell, offer, or ex-
19 pose for sale or hire, or have in possession for the purpose of
20 selling or hiring, an incorrect weight or measure or any device
21 or instrument used to or calculated to falsify any weight or mea-
22 sure.

23 b. Use, or have in possession for current use, in buying
24 or selling of any commodity or thing, or for hire or award, or in
25 the computation of any basic charge or payment for services ren-
26 dered on the basis of weight or measurement, or in the determina-
27 tion of weight or measurement when a charge is made for such de-
28 termination, any weight or measure that has not been tested and
29 sealed by the appropriate authority within one year, (a) unless

1 written notice has been given to the appropriate authority to the
2 effect that such weight or measure is available for examination,
3 or is due for reexamination, as the case may be, (b) unless spe-
4 cific written permission to use such weight or measure has been
5 received from the appropriate authority, or (c) unless such
6 weight or measure has been exempted from sealing or annual testing
7 requirements by the provisions of Sec. 11 of this Act or by a
8 regulation of the director issued under the authority of Sec. 9
9 of this Act.

10 c. Dispose of any rejected or condemned weight or measure
11 in a manner contrary to law or regulation.

12 d. Remove from any weight or measure, contrary to law or
13 regulation, any tag, seal, or mark placed thereon by the appropri-
14 ate authority.

15 e. Sell, or offer or expose for sale, less than the quantity
16 he represents of any commodity, thing, or service.

17 f. Take more than the quantity he represents of any commod-
18 ity, thing, or service when, as buyer, he furnished the weight or
19 measure by means of which the amount of the commodity, thing, or
20 service is determined.

21 g. Keep for the purpose of sale, advertise, or offer or ex-
22 pose for sale, or sell any commodity, thing, or service in a con-
23 dition or manner contrary to law or regulation.

24 h. Use in retail trade, except in the preparation of pack-
25 ages put up in advance of sale and of medical prescriptions, a
26 weight or measure that is not so positioned that its indications
27 may be accurately read and the weighing or measuring operation
28 observed from some position which may reasonably be assumed by a
29 customer.

1 1. Violate any provision of this Act or of the regulations
2 promulgated under the provisions of this Act for which a specific
3 penalty has not been prescribed.

4 Sec. 40. INJUNCTION. The director is authorized to apply
5 to any court of competent jurisdiction for, and such court upon
6 hearing and for cause shown may grant, a temporary or permanent
7 injunction restraining any person from violating any provision
8 of this Act.

9 Sec. 41. PRESUMPTIVE EVIDENCE. For the purposes of this
10 Act, proof of the existence of a weight or measure or a weighing
11 or measuring device in or about any building, enclosure, stand or
12 vehicle in which or from which it is shown that buying or selling
13 is commonly carried on, shall, in the absence of conclusive
14 evidence to the contrary, be presumptive proof of the regular use
15 of such weight or measure or weighing or measuring device for
16 commercial purposes and of such use by the person in charge of
17 such building, enclosure, stand, or vehicle.

18 Sec. 42. VALIDITY OF PROSECUTIONS. Prosecutions for viola-
19 tion of any provision of this Act are declared to be valid and
20 proper notwithstanding the existence of any other valid general
21 or specific Act of this state dealing with matters that may be
22 the same as or similar to those covered by this Act.

23 Sec. 43. SEPARABILITY PROVISION. If any provision of this
24 Act is declared unconstitutional, or the applicability thereof to
25 any person or circumstance is held invalid, the constitutionality
26 of the remainder of the Act and the applicability thereof to other
27 persons and circumstances shall not be affected thereby.

28 Sec. 44. REPEALER. Sec. 35-5-1, ACLA 1949, as amended by
29 Sec. 1, Ch. 143, SLA 1957; Sec. 35-5-2, ACLA 1949, as amended by
HB #50 as amended

1 Sec. 1, Ch. 94, SLA 1951 and Sec. 1, Ch. 84, SLA 1955; Secs.
2 35-5-3 through 35-5-11, ACLA 1949; and Secs. 35-5-12 through
3 35-5-25 as added by Ch. 143, SLA 1957 are repealed; provided
4 however that as to offenses committed, liabilities incurred, and
5 claims now existing, the laws that are repealed by this Act shall
6 remain in full force and effect.

7 Sec. 45. EFFECTIVE DATE. This Act takes effect on the day
8 after its passage and approval or on the day it becomes law with-
9 out such approval.

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