

Introduced: 2/14/84  
Referred: Labor and Commerce  
and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 491

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to weights and measures; and provid-  
7 ing for an effective date."

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

9 \* Section 1. AS 45.75.030 is amended to read:

10 Sec. 45.75.030. STATE DIRECTOR AND INSPECTORS OF WEIGHTS AND  
11 MEASURES. The commissioner of commerce and economic development is ex  
12 officio state director of weights and measures. The commissioner may  
13 delegate this authority, and [DIRECTOR] may appoint state inspectors.

14 \* Sec. 2. AS 45.75.040 is amended to read:

15 Sec. 45.75.040. GENERAL POWERS AND DUTIES OF COMMISSIONER  
16 [DIRECTOR]. The commissioner [DIRECTOR] is the custodian of the state  
17 standards of weight and measure and of the other standards and equip-  
18 ment provided for by this chapter, and [. THE DIRECTOR] shall keep  
19 accurate records of the standards and equipment. The commissioner  
20 [DIRECTOR] shall operate motor vehicle weigh stations; establish fees  
21 for and issue overweight and oversize vehicle permits; enforce this  
22 chapter; implement AS 44.33.020(25); and [. HE SHALL] supervise the  
23 weights and measures offered for sale, sold, or in use in the state.

24 \* Sec. 3. AS 45.75.050(a) is amended to read:

25 (a) The commissioner [DIRECTOR] shall adopt [ISSUE] regulations  
26 for the enforcement of this chapter in accordance with the Administra-  
27 tive Procedure Act (AS 44.62). These have the effect of law.

28 \* Sec. 4. AS 45.75.050(b) is amended by adding a new paragraph to read:

29 (5) provisions governing the enforcement of the size,

1 weight, and load limitations established under AS 19.10.060; the  
2 issuance of, and the enforcement of the terms of, permits for over-  
3 weight and oversize vehicles; and the operation of weigh stations.

4 \* Sec. 5. AS 45.75.050(d) is amended to read:

5 (d) The specifications, tolerances, and regulations for commer-  
6 cial weighing and measuring devices, together with amendments to them,  
7 as recommended by the National Bureau of Standards and published in  
8 National Bureau of Standards Handbook 44 and supplements to it, or in  
9 any publication revising or superseding Handbook 44, are the specifi-  
10 cations, tolerances, and regulations for commercial weighing and  
11 measuring devices of the state, except as specifically modified,  
12 amended, or rejected by a regulation adopted [ISSUED] by the commis-  
13 sioner [DIRECTOR].

14 \* Sec. 6. AS 45.75.060 is amended to read:

15 Sec. 45.75.060. OFFICE AND FIELD [WORKING] STANDARDS AND EQUIP-  
16 MENT. The commissioner [STATE] shall maintain [SUPPLY THE DIVISION OF  
17 WEIGHTS AND MEASURES WITH] a duplicate set of state standards of  
18 weight and measure, referred to in this chapter as office standards.  
19 The commissioner [STATE] shall also supply field standards and the  
20 equipment which is necessary to carry out this chapter. The office  
21 standards and field standards must [SHALL] be verified upon their  
22 initial receipt and at least once each year afterward. The office  
23 standards must [SHALL] be verified by direct comparison with the state  
24 standards. The field standards must [SHALL] be verified by comparison  
25 with the office standards.

26 \* Sec. 7. AS 45.75.070 is amended to read:

27 Sec. 45.75.070. TESTING AND INSPECTION OF LOCAL STANDARDS AND  
28 WEIGHTS AND MEASURES AT STATE-SUPPORTED INSTITUTIONS. (a) At least  
29 once every five years, the commissioner [DIRECTOR] shall test the

1 standards of weight and measure obtained by a city which has appointed  
2 a sealer of weights and measures, and shall approve them if they are  
3 correct. The commissioner [DIRECTOR] shall inspect the standards at  
4 least once every two years.

5 (b) The commissioner [DIRECTOR] shall from time to time test all  
6 weights and measures used in checking the receipt or disbursement of  
7 supplies in every institution maintained by money appropriated by the  
8 legislature, and shall report the commissioner's [HIS] findings, in  
9 writing, to the supervisory board and to the executive officer of the  
10 institution concerned.

11 \* Sec. 8. AS 45.75.080(a) is amended to read:

12 (a) The commissioner [DIRECTOR] may inspect and test, to ascer-  
13 tain if they are correct, all weights and measures kept, offered, or  
14 exposed for sale. The commissioner [DIRECTOR] shall, at least annu-  
15 ally [~~SEMIANNUALLY AND MORE OFTEN AS HE CONSIDERS NECESSARY~~], inspect  
16 and test, to ascertain if they are correct, all weights and measures  
17 commercially used

18 (1) in determining the weight, measurement, or count of  
19 commodities or things sold, or offered or exposed for sale, on the  
20 basis of weight or of measure;

21 (2) in computing the basic charge or payment for services  
22 rendered on the basis of weight or of measure or count; or

23 (3) in determining weight or measurement when a charge is  
24 made for this determination.

25 \* Sec. 9. AS 45.75.090 is amended to read:

26 Sec. 45.75.090. INVESTIGATIONS. The commissioner [DIRECTOR]  
27 shall investigate complaints of violations of this chapter, and shall  
28 [, UPON HIS OWN INITIATIVE,] conduct other [THE] investigations which  
29 the commissioner [HE] considers appropriate and advisable to develop

1 information on prevailing procedures in commercial quantity determ-  
2 ination and on possible violations of this chapter; and to promote the  
3 general objective of accuracy in the determination and representation  
4 of quantity in commercial transactions.

5 \* Sec. 10. AS 45.75.100 is amended to read:

6 Sec. 45.75.100. INSPECTION OF PACKAGES. (a) The commissioner  
7 [DIRECTOR] shall, from time to time, weigh or measure and inspect  
8 packages or amounts of commodities kept, offered, or exposed for sale  
9 to determine whether they contain the amounts represented and whether  
10 they are kept, offered, or exposed for sale in accordance with law.  
11 When packages or amounts of commodities do not contain the amounts  
12 represented, or are kept, offered, or exposed for sale in violation of  
13 law, the commissioner [DIRECTOR] may order them off sale and may mark  
14 or tag them to show they are illegal. The commissioner [DIRECTOR] may  
15 use recognized sampling procedures. Compliance of a given lot of  
16 packages must [SHALL] be determined on the basis of the result ob-  
17 tained on a sample selected from and representative of the lot.

18 (b) No person may

19 (1) sell, or keep, offer, or expose for sale in intrastate  
20 commerce a package or amount of commodity that has been ordered off  
21 sale or marked or tagged as provided in this section until the package  
22 or amount of commodity has been brought into full compliance with all  
23 legal requirements; or

24 (2) dispose of a package or amount of commodity that is  
25 ordered off sale or marked or tagged as provided in this section and  
26 that does not meet legal requirements, except with the specific ap-  
27 proval of the commissioner [DIRECTOR].

28 \* Sec. 11. AS 45.75.110(a) is amended to read:

29 (a) The commissioner [DIRECTOR] may issue stop-use orders,

1 stop-removal orders, and removal orders for weights and measures used  
2 or capable of being used commercially. The commissioner [DIRECTOR]  
3 may issue stop-removal orders and removal orders for packages or  
4 amounts of commodities kept, offered, or exposed for sale whenever the  
5 commissioner [HE] considers it necessary or expedient in enforcing  
6 this chapter.

7 \* Sec. 12. AS 45.75.120 is amended to read:

8 Sec. 45.75.120. DISPOSITION OF CORRECT AND INCORRECT APPARATUS.

9 (a) The commissioner [DIRECTOR] shall approve for use and seal or  
10 mark with appropriate devices the weights and measures which the  
11 commissioner [HE] finds upon inspection and test to be correct as  
12 provided in AS 45.75.050, and shall reject and mark or tag as "re-  
13 jected" the weights and measures which are found [HE FINDS], upon  
14 inspections or testing [TEST], to be incorrect as provided in AS 45.-  
15 75.050 but which in the commissioner's [HIS] best judgment may be  
16 satisfactorily repaired [ARE SUSCEPTIBLE OF SATISFACTORY REPAIR].  
17 This sealing or marking is not required for weights and measures  
18 exempted by regulation [OF THE DIRECTOR].

19 (b) The commissioner [DIRECTOR] shall condemn, and may seize and  
20 destroy weights and measures found to be incorrect which, in the  
21 commissioner's [HIS] best judgment, cannot be satisfactorily repaired  
22 [ARE NOT SUSCEPTIBLE OF SATISFACTORY REPAIR]. Weights and measures  
23 which are rejected under (a) of this section may be confiscated and  
24 destroyed by the commissioner [DIRECTOR] if not corrected as required  
25 by AS 45.75.180 or if used or disposed of contrary to the requirements  
26 of AS 45.75.180.

27 \* Sec. 13. AS 45.75.130 is amended to read:

28 Sec. 45.75.130. POLICE POWERS AND RIGHT OF ENTRY AND STOPPAGE.

29 (a) In the enforcement of this chapter and any other law dealing with

1 weights and measures, the commissioner [DIRECTOR] has special police  
2 powers. The commissioner [HE] may arrest, without formal warrant, any  
3 person violating the law, and seize for use as evidence, without  
4 formal warrant, incorrect or unsealed weights and measures or amounts  
5 or packages of commodity, used, retained, offered, or exposed for  
6 sale, or sold in violation of law. In performing his duties, the  
7 commissioner [DIRECTOR] may enter, without formal warrant, any struc-  
8 ture or premises, and stop any person and require the person to pro-  
9 ceed to a specified place.

10 (b) An employee of the Department of Commerce and Economic  
11 Development who is authorized by the commissioner to enforce the size,  
12 weight, and load limitations adopted by the Department of Transporta-  
13 tion and Public Facilities under AS 19.10.060 may arrest or issue a  
14 citation to a person who violates (1) any of those limitations, (2)  
15 the terms of an overweight or oversize vehicle permit issued under  
16 AS 44.33.020(25) and AS 45.75.040, or (3) the provisions of regu-  
17 lations adopted under AS 44.33.020(25) and AS 45.75.050(b)(5). Cita-  
18 tions issued under this subsection must be treated as specified by  
19 AS 12.25.180 -- 12.25.230 for citations issued by a peace officer.

20 \* Sec. 14. AS 45.75.140 is amended to read:

21 Sec. 45.75.140. POWERS AND DUTIES OF INSPECTORS [DEPUTY DIRECTOR  
22 AND INSPECTOR]. The powers and duties of the commissioner [DIRECTOR]  
23 specified in AS 45.75.070, 45.75.080, 45.75.090, 45.75.100, 45.75.120,  
24 45.75.130, and 45.75.170 may [, AND 45.75.380 SHALL] also be exercised  
25 by [THE DEPUTY DIRECTOR AND] inspectors, when acting under the in-  
26 structions and at the direction of the commissioner [DIRECTOR].

27 \* Sec. 15. AS 45.75.150 is amended to read:

28 Sec. 45.75.150. APPOINTMENT OF CITY SEALERS AND DEPUTY SEALERS  
29 OF WEIGHTS AND MEASURES. (a) A city may appoint a sealer of weights

1 and measures, and the deputy sealers of weights and measures it needs.  
2 If the city appoints a sealer, it shall obtain at its expense the  
3 standards of weight and measure [WEIGHTS AND MEASURES] and the addi-  
4 tional equipment, for use in the enforcement of this chapter in the  
5 city, which the commissioner [DIRECTOR] prescribes.

6 (b) When the standards of weight and measure provided by a city  
7 are examined and approved by the commissioner [DIRECTOR], they are the  
8 official standards for the city. At least every five years, the  
9 sealer shall make or arrange to have made comparisons between the  
10 sealer's [HIS] field standards and appropriate standards of a higher  
11 order belonging to the sealer's [HIS] city or to the state, in order  
12 to maintain the field standards in accurate condition.

13 \* Sec. 16. AS 45.75.160 is amended to read:

14 Sec. 45.75.160. CITY SEALERS AND DEPUTY SEALERS. The sealer of  
15 a city, and the sealer's deputy [SEALER] when acting under the seal-  
16 er's [HIS] instructions and [AT HIS] direction, have the same powers  
17 and shall perform the same duties within the city as those granted to  
18 and imposed upon the commissioner [DIRECTOR] by AS 45.75.080 -- 45.-  
19 75.130 and 45.75.380.

20 \* Sec. 17. AS 45.75.170 is amended to read:

21 Sec. 45.75.170. CONCURRENT JURISDICTION. In each city having a  
22 sealer of weights and measures, the commissioner [DIRECTOR] has con-  
23 current authority to enforce this chapter.

24 \* Sec. 18. AS 45.75.180 is amended to read:

25 Sec. 45.75.180. DUTY OF OWNERS OF INCORRECT APPARATUS. Weights  
26 and measures rejected by the commissioner [DIRECTOR] or a sealer  
27 remain subject to the control of the rejecting authority until suit-  
28 able repair or disposition of them is made as required by this sec-  
29 tion. The owner of a rejected weight and measure shall correct it

1 within 30 days or a longer period authorized by the rejecting author-  
2 ity, [;] or [,] may dispose of it in the manner authorized by the  
3 rejecting authority. Rejected weights and measures may not again be  
4 used commercially until officially re-examined and found to be correct  
5 or until specific written permission for their use is issued by the  
6 rejecting authority.

7 \* Sec. 19. AS 45.75.190(c) is amended to read:

8 (c) The commissioner [DIRECTOR] may adopt [ISSUE] reasonable  
9 regulations necessary to assure that amounts of commodity sold are  
10 determined in accordance with good commercial practice and are so  
11 determined and represented as to be accurate and informative.

12 \* Sec. 20. AS 45.75.200(c) is amended to read:

13 (c) Under (a)(1) of this section the commissioner [DIRECTOR]  
14 shall, by regulation, establish

15 (1) reasonable variations or tolerances to be allowed, which  
16 may include variations below the declared weight or measure caused by  
17 ordinary and customary exposure, only after the commodity is intro-  
18 duced into intrastate commerce, to conditions that normally occur in  
19 good distribution practice and that unavoidably result in decreased  
20 weight or measure,

21 (2) exemption as to small packages, and

22 (3) exemptions as to commodities put up in variable weights  
23 or sizes for sale to the consumer intact and either customarily not  
24 sold as individual units or customarily weighed or measured at the  
25 time of sale to the consumer.

26 \* Sec. 21. AS 45.75.220 is amended to read:

27 Sec. 45.75.220. MISLEADING PACKAGES. No commodity in package  
28 form may be so wrapped, or put in a container so made, formed, or  
29 filled as to mislead the purchaser as to the quantity of the contents

1 of the package, and the contents of a container may not fall below the  
2 reasonable standard of fill which the commissioner [DIRECTOR] pre-  
3 scribes for the commodity.

4 \* Sec. 22. AS 45.75.282(b) is amended to read:

5 (b) One of the tickets provided for in (a) of this section shall  
6 be retained by the vendor, and the other shall be delivered to the  
7 purchaser at the time of delivery of the commodity, or surrendered, on  
8 demand, to the commissioner [DIRECTOR, OR THE DEPUTY DIRECTOR,] or an  
9 inspector, or a sealer [,] or a deputy sealer, who may [.,IF HE WANTS  
10 TO] retain it as evidence and, if it is retained, shall issue a weight  
11 slip in place of it.

12 \* Sec. 23. AS 45.75.290(b) is amended to read:

13 (b) One of the tickets provided for under (a) of this section  
14 shall be retained by the vendor and the other shall be delivered to  
15 the purchaser at the time of delivery of the fuel, or shall be sur-  
16 rendered, on demand, to the commissioner [DIRECTOR, OR THE DEPUTY  
17 DIRECTOR] or an inspector, or a sealer or deputy sealer, who may [, IF  
18 HE DESIRES TO] retain it as evidence and [, SHALL] issue a weight slip  
19 in place of it for delivery to the purchaser. If the purchaser car-  
20 ries away the [HIS] purchase, the vendor is required only to give to  
21 the purchaser at the time of sale a delivery ticket stating the number  
22 of pounds of fuel delivered to the purchaser [HIM].

23 \* Sec. 24. AS 45.75.300(3) is amended to read:

24 (3) reasonable tolerances shall be permitted, and these  
25 must [SHALL] be included in regulations adopted for the enforcement of  
26 this section [THAT ARE ISSUED BY THE DIRECTOR];

27 \* Sec. 25. AS 45.75.330 is amended to read:

28 Sec. 45.75.330. INJUNCTION. The commissioner [DIRECTOR] may  
29 apply to a court for a temporary or permanent injunction restraining a

1 person from violating a provision of this chapter.

2 \* Sec. 26. AS 45.75.380 is amended to read:

3 Sec. 45.75.380. OFFENSES AND PENALTIES. It is a class A misde-  
4 meanor for a person to perform any of the following acts or otherwise  
5 to violate a provision of this chapter [A PERSON WHO, BY HIMSELF OR BY  
6 HIS SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF ANOTHER, PERFORMS  
7 ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A MISDEMEANOR AND UPON A  
8 FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE BY A FINE OF NOT LESS  
9 THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT FOR NOT MORE THAN  
10 THREE MONTHS, OR BY BOTH. UPON A SECOND OR SUBSEQUENT CONVICTION, THE  
11 PERSON IS FUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE THAN  
12 \$500, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]:

13 (1) uses or has in possession for the purpose of using for  
14 any commercial purpose specified in AS 45.75.080, sells, offers, or  
15 exposes for sale, or hire, or has in possession for the purpose of  
16 selling or hiring, an incorrect weight or measure or a device or  
17 instrument used to or calculated to falsify a weight or measure;

18 (2) uses or has in possession for current use, in buying or  
19 selling a commodity or thing, or for hire or award, or in the computa-  
20 tion of a basic charge or payment for services rendered on the basis  
21 of weight or measurement, or in the determination of weight or mea-  
22 surement when a charge is made for determination, a weight or measure  
23 that has not been tested and sealed by the appropriate authority  
24 within one year, (A) unless written notice is given to the appropriate  
25 authority to the effect that the weight or measure is available for  
26 examination, or is due for re-examination, as the case may be, (B) un-  
27 less specific written permission to use the weight or measure is  
28 received from the appropriate authority, or (C) unless the weight or  
29 measure is exempt from sealing or annual testing requirements by

1 AS 45.75.080 or by a regulation adopted [OF THE DIRECTOR ISSUED] under  
2 AS 45.75.050;

3 (3) disposes of a rejected weight or measure in a manner  
4 contrary to law or regulation;

5 (4) removes from a weight or measure, contrary to law or  
6 regulation, a tag, seal, or mark placed on it by the appropriate  
7 authority;

8 (5) sells, offers or exposes for sale less than the quan-  
9 tity he represents of a commodity, thing, or service;

10 (6) takes more than the quantity he represents of a commod-  
11 ity, thing, or service when, as buyer, he furnished the weight or  
12 measure by means of which the amount of the commodity, thing, or  
13 service is determined;

14 (7) keeps for the purpose of sale, advertises, or offers or  
15 exposes for sale, or sells a commodity, thing, or service in a condi-  
16 tion or manner contrary to law or regulation;

17 (8) uses in retail trade, except in the preparation of  
18 packages put up in advance of sale and of medical prescriptions, a  
19 weight or measure that is not so positioned that its indications may  
20 be accurately read and the weighing or measuring operation observed  
21 from some position which may reasonably be assumed by a customer;

22 (9) violates a provision of this chapter or of a regulation  
23 adopted under this chapter for which a specific penalty is not pre-  
24 scribed;

25 (10) hinders or obstructs the commissioner, an inspector, a  
26 sealer, or a deputy sealer in the performance of official duties under  
27 this chapter;

28 (11) violates a provision of an overweight or oversize  
29 permit;

1                    (12) violates a weight, load, or size limitation established  
2                    under AS 19.10.060 or regulations adopted under AS 19.05.020 or 45.-  
3                    75.050(b)(5).  
4                    \* Sec. 27. AS 45.75.390(4) is repealed and reenacted to read:  
5                                       (4) "commissioner" means the commissioner of commerce and  
6                    economic development or a designee;  
7                    \* Sec. 28. AS 28.35.230(e) and AS 45.75.360 are repealed.  
8                    \* Sec. 29. This Act takes effect immediately in accordance with AS 01.-  
9                    10.070(c).