

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2

HOUSE BILL NO. 271

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST 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 45.75.050(b) is amended to read:

10 (b) The regulations may include

11 (1) standards of net weight, measure, or count, and reason-
12 able standards of fill, for a [ANY] commodity in package form;

13 (2) rules governing the technical and reporting procedures
14 to be followed, and the report and record forms and marks of approval
15 and rejection to be used by inspectors of weights and measures in the
16 discharge of their official duties;

17 (3) exemptions from the sealing or marking requirements of
18 AS 45.75.120 for [WITH RESPECT TO] weights and measures of a character
19 or size that sealing or marking would be inappropriate, impracticable,
20 or damaging to the apparatus in question; [AND]

21 (4) for [WITH RESPECT TO] classes of weights and measures
22 of a character that retesting is unnecessary to continued accuracy,
23 exemptions from the requirements of AS 45.75.070 and 45.75.080 for
24 testing, and schedules fixing the frequency of required retests for
25 classes of devices exempted;

26 (5) in the implementation of AS 44.33.020(25), provisions
27 governing the enforcement of the size, weight, and load limitations
28 established under AS 19.10.060; the issuance of, and the enforcement
29 of the terms of, permits for overweight and oversize vehicles; and the

1 operation of weigh stations.

2 * Sec. 2. AS 45.75 is amended by adding new sections to read:

3 Sec. 45.75.131. ISSUANCE OF CITATIONS. An employee of the
4 Department of Commerce and Economic Development who is authorized by
5 the commissioner to enforce the size, weight, and load limitations
6 adopted by the Department of Transportation and Public Facilities
7 under AS 19.10.060 may issue a citation to a person who violates

8 (1) a weight, size, or load limitation;

9 (2) the terms of an overweight or oversize vehicle permit
10 issued under AS 44.33.020(25); or

11 (3) a regulation adopted under AS 44.33.020(25) and AS 45.-
12 75.050(b)(5).

13 Sec. 45.75.132. FORM AND ISSUANCE OF CITATION. (a) A citation
14 issued under this section must be in writing. A person receiving the
15 citation is not required to sign a promise to appear in court.

16 (b) The time specified in the notice to appear on a citation
17 issued under this section must be at least 15 days after the issuance
18 of the citation, unless the person cited requests an earlier hearing.

19 (c) The commissioner is responsible for the issuance of books
20 containing appropriate citations and shall maintain a record of each
21 book and each citation contained in it. The commissioner shall re-
22 quire and retain a receipt for every book issued to an employee of the
23 department designated by the commissioner to provide investigative
24 service to enforce provisions of this chapter.

25 (d) An employee who issues a citation under this section shall
26 deposit the original or a copy of the citation with a court having
27 jurisdiction over the alleged offense. Upon its deposit with the
28 court, the citation may be disposed of only by trial in the court or
29 other official action taken by the magistrate, judge, or prosecutor.

1 The employee who issued the citation may not dispose of it or copies
2 of it or of the record of its issuance except as required under this
3 subsection and (e) of this section.

4 (e) The commissioner shall require the return of a copy of every
5 citation issued under this section and of all copies of every citation
6 that has been spoiled or on which an entry has been made and not
7 issued to an alleged violator. The commissioner shall also maintain
8 in connection with every citation issued a record of the disposition
9 of the charge by the court in which the original or copy of the cita-
10 tion was deposited.

11 (f) If the form of citation issued under this section includes
12 the essential facts constituting the offense charged and is sworn to
13 as required under the laws of this state for a complaint charging
14 commission of the offense alleged in the citation, the citation when
15 filed with a court having jurisdiction, is considered to be a lawful
16 complaint for the purpose of prosecution.

17 (g) Unless the citation has been voided or otherwise dismissed
18 by the magistrate, judge, or prosecutor, or bail has been forfeited
19 under AS 45.75.133, a person who fails to appear in court to answer a
20 citation issued under this section, regardless of the disposition of
21 the charge for which the citation was issued, is guilty of a class B
22 misdemeanor.

23 Sec. 45.75.133. BAIL FORFEITURE. (a) The supreme court shall
24 specify by rule or order those violations that are appropriate for
25 disposition without court appearance, and shall establish a schedule
26 of bail amounts. The maximum bail forfeiture amount for an offense
27 may not exceed the maximum fine specified by law for that offense. If
28 the person who has been cited can dispose of the violation without
29 court appearance, the issuing employee shall write on the citation the

1 amount of bail forfeiture applicable to the violation.

2 (b) A person cited for a violation for which a bail forfeiture
3 amount has been established under (a) of this section may, within 15
4 days after the date of the citation, mail or personally deliver to the
5 clerk of the court in which the citation is filed by the employee

6 (1) the amount of bail indicated on the citation for that
7 offense; and

8 (2) a copy of the citation indicating that the right to an
9 appearance is waived, a plea of no contest is entered and the bail is
10 forfeited.

11 (c) When the cited person has forfeited bail under (b) of this
12 section, the court shall enter a judgment of conviction. Forfeiture
13 of bail is a complete satisfaction for the violation. The clerk of
14 the court accepting the bail forfeiture shall provide the offender
15 with a receipt stating that fact.

16 (d) A cited person who fails to pay the bail forfeiture amount
17 established under (a) of this section or to appear in court as re-
18 quired, is guilty of a class B misdemeanor.

19 (e) Notwithstanding other provisions of law, if a person cited
20 for a violation for which a bail forfeiture amount has been estab-
21 lished under (a) of this section appears in court and is found guilty,
22 the court may not impose a penalty that exceeds the bail forfeiture
23 amount for that offense established under (a) of this section.

24 * Sec. 3. AS 45.75.380 is amended to read:

25 Sec. 45.75.380. OFFENSES AND PENALTIES. A person commits a
26 violation subject to the penalty specified in AS 12.55.035(b)(5) if
27 the person does one or more [WHO, PERSONALLY OR BY A SERVANT, OR
28 AGENT, OR AS THE SERVANT OR AGENT OF ANOTHER, PERFORMS ANY ONE] of the
29 following acts [IS GUILTY OF A MISDEMEANOR AND UPON A FIRST CONVICTION

1 OF THE VIOLATION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$20 NOR MORE
2 THAN \$200, OR BY IMPRISONMENT FOR NOT MORE THAN THREE MONTHS, OR BY
3 BOTH. UPON A SECOND OR SUBSEQUENT CONVICTION, THE PERSON IS PUNISH-
4 ABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE THAN \$500, OR BY IMPRIS-
5 ONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]:

6 (1) uses or has in possession for the purpose of using for
7 a [ANY] commercial purpose specified in AS 45.75.080, sells, offers,
8 or exposes for sale, or hire, or has in possession for the purpose of
9 selling or hiring, an incorrect weight or measure or a device or
10 instrument used to or calculated to falsify a weight or measure;

11 (2) uses or has in possession for current use, in buying or
12 selling a commodity or thing, or for hire or award, or in the computa-
13 tion of a basic charge or payment for services rendered on the basis
14 of weight or measurement, or in the determination of weight or mea-
15 surement when a charge is made for determination, a weight or measure
16 that has not been tested and sealed by the appropriate authority
17 within one year, [(A)] unless

18 (A) the person gives written notice [IS GIVEN] to the
19 appropriate authority to the effect that the weight or measure is
20 available for examination, or is due for reexamination [RE-EXAMI-
21 NATION], as the case may be; [.]

22 (B) the person receives [UNLESS] specific written
23 permission to use the weight or measure [IS RECEIVED] from the
24 appropriate authority; [.] or

25 (C) [UNLESS] the weight or measure is exempt from
26 sealing or annual testing requirements by AS 45.75.080 or by a
27 regulation adopted [OF THE DIRECTOR ISSUED] under AS 45.75.050;

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

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

4 (5) sells or [,] offers [OR EXPOSES] for sale less than the
5 quantity the person represents of a commodity, thing, or service;

6 (6) takes more than the quantity the person represents of a
7 commodity, thing, or service when, as buyer, the person furnished the
8 weight or measure that the seller used to determine [BY MEANS OF
9 WHICH] the amount of the commodity, thing, or service [IS DETERMINED];

10 (7) keeps for the purpose of sale, advertises, or offers
11 [OR EXPOSES] for sale, or sells a commodity, thing, or service in a
12 condition or manner contrary to law or regulation;

13 (8) uses in retail trade, except in the preparation of
14 packages put up in advance of sale and of medical prescriptions, a
15 weight or measure that is not so positioned that a customer may accu-
16 rately read, from a position that may reasonably be assumed by a
17 customer, its indications [MAY BE ACCURATELY READ] and observe the
18 weighing or measuring operation [OBSERVED FROM SOME POSITION WHICH MAY
19 REASONABLY BE ASSUMED BY A CUSTOMER];

20 (9) hinders or obstructs the director, an inspector, a
21 sealer, or a deputy sealer in the performance of official duties under
22 this chapter;

23 (10) violates a provision of an overweight or oversize
24 vehicle permit issued under AS 44.33.020(25);

25 (11) violates a weight, load, or size limitation established
26 under AS 19.10.060 or a regulation adopted under AS 19.05.020, AS 44.-
27 33.020(25), or AS 45.75.050(b)(5);

28 (12) violates a provision of this chapter or [OF] a regula-
29 tion adopted under this chapter for which a specific penalty is not

1 prescribed.

2 * Sec. 4. AS 45.75.380 is amended by adding a new subsection to read:

3 (b) Notwithstanding the maximum fine for a violation provided
4 under (a) of this section, the director shall impose on a person who
5 violates a regulation or special permit governing the weight limit of
6 a motor vehicle a maximum penalty of \$.05 for each pound of weight
7 over the authorized weight limit for the vehicle.

8 * Sec. 5. AS 28.40.050(e) and AS 45.75.360 are repealed.

9 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).