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Sec. 12.25.160. Arrest defined. Arrest is the taking of a person into custody in order that the person may be held to answer for the commission of a crime. (§ 2.01 ch 34 SLA 1962)

NOTES TO DECISIONS

Arrest for speedy trial purposes. — "Arrest," as used in Crim. R. 45(c)(1), which provides for a 120-day speedy trial period, must be defined in conformity with the statutory definition of an arrest. G.D. v. State, Ct. App. Op. No. 374 (File No. 7724), P.2d (1984).

Defendant was not arrested on the date of the child-in-need-of-aid hearing, and the 120-day speedy trial period did not begin to run until he was served with a copy of the information charging him with sexual assault in the first degree and contributing to the delinquency of a minor. G.D. v. State, Ct. App. Op. No. 374 (File No. 7724), P.2d (1984).

Drawn guns and handcuffing do not necessarily turn stop into arrest. Howard v. State, Ct. App. Op. No. 260 (File Nos. 6027, 6123), 664 P.2d 603 (1983).

Lawful stops and custodial arrest distinguished. — See Howard v. State, Ct. App. Op. No. 260 (File Nos. 6027, 6123), 664 P.2d 603 (1983).

Applied in Goss v. State, Sup. Ct. Op. No. 193 (File No. 235), 390 P.2d 220, cert. denied, 379 U.S. 859, 85 S. Ct. 118, 13 L.Ed.2d 62 (1964); Aldridge v. State, Sup. Ct. Op. No. 1971 (File No. 3413), 602 P.2d 798 (1979); Maynard v. State, Ct. App. Op. No. 136 (File No. 5501), 652 P.2d 489 (1982).

Sec. 12.25.180. When peace officer may issue citation or take person before the court. (a) When a person is stopped or contacted by a peace officer for the commission of a misdemeanor or the violation of a municipal ordinance, the person may, in the discretion of the contacting peace officer, be issued a citation instead of being taken before a judge or magistrate under AS 12.25.150, unless

- (1) the person does not furnish satisfactory evidence of identity;
- (2) the contacting officer has reasonable and probable cause to believe the person is a danger to self or others;
- (3) the crime for which the person is contacted is one involving violence or harm to another person or to property; or
- (4) the person asks to be taken before a judge or magistrate under AS 12.25.150.

(b) When a person is stopped or contacted by a peace officer for the commission of an infraction or a violation, the person shall be issued a citation instead of being taken before a judge or magistrate under AS 12.25.150, unless

- (1) the person does not furnish satisfactory evidence of identity; or
- (2) the person refuses to accept the citation or to give a written promise to appear as provided for under AS 12.25.190(c). (§ 1 ch 31 SLA 1973; am § 19 ch 127 SLA 1974; am § 3 ch 144 SLA 1977; am § 34 ch 102 SLA 1980)

Effect of amendments. — The 1980 amendment designated the provisions of this section as subsection (a), deleted "or an infraction" following "of a misdemeanor or" near the beginning of subsection (a), and added subsection (b).

Legislative history reports. — For report on ch. 31, SLA 1973 (SB 25), see 1973 Senate Journal Supplement No. 7, p. 2.



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K Street
Anchorage, Alaska 99501

February 7, 1985

The Honorable Jack Coghill
Chairman
Senate Transportation Committee
Pouch V
Juneau, AK 99811

Dear Senator Coghill:

I am writing to bring to your attention some court system concerns arising from Senate Bill 82, an act relating to weights and measures, which is presently before the Senate Transportation Committee.

A major concern is the legislative intent about how violations under this act will be handled in court. Under Section 13 of the bill, an authorized employee may issue citations for size, weight, or load limitations and for violations of an overweight or oversize permit. Proposed paragraph 45.75.130(d) (page 7, lines 16-23) provides that a citation may be disposed of only by trial. These offenses will be classified as violations rather than misdemeanors (A.S. 45.75.380(a); page 13, lines 6-8) with an additional fine of five cents per pound for each overweight pound.

When these offenses were enforced by the Department of Public Safety they were included on the traffic and motor vehicle bail forfeiture schedule adopted by supreme court order under the authority of A.S. 28.05.151. These offenses were handled like traffic tickets. A person cited who wished to plead guilty could do so by waiving the person's right to trial and mailing a bail forfeiture amount to the court. The amount was set by the supreme court based upon recommendations from the Department of Public Safety and was standard for each offense. Persons who wished to plead not guilty were scheduled for a non-jury trial, and if found guilty could be required to pay a fine no greater than the bail forfeiture amount.

Under the scheme proposed in SB 82, all persons cited would be required to come to court to plead guilty. Because this results in additional judicial time handling court appearances rather than additional clerical time handling bail forfeiture payments, the court system suggests

COURT SYSTEM REQUEST

The Honorable Jack Coghill
February 7, 1985
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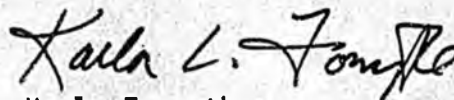
that the committee consider whether a bail forfeiture procedure would be appropriate for these offenses. I have attached a copy of language which could be incorporated into the bill if the committee wishes to consider this approach.

The bill raises an additional question about legislative intent. The Alaska Supreme Court has held that a defendant is entitled to a jury trial and, if indigent, to court-appointed counsel at public expense if a direct penalty of the offense will be incarceration, loss of a valuable license, or offenses which, even if incarceration is not possible, still connote criminal content.

A heavy enough fine might also indicate criminality. Baker v. City of Fairbanks, 471 P.2d 386 (1970). Additionally, A.S. 11.81.700(b)(56) defines a violation as a non-criminal offense punishable only by a fine and provides that a person charged with a violation is not entitled to a jury trial or counsel at public expense. Although offenses under this bill are classified as violations (Section 26), an additional fine of 5¢ per pound is required for overweight violations (see page 15, lines 7-12). If a defendant's vehicle is substantially overweight, the additional fine could increase the total fine to such an extent that it denotes criminality. Thus, jury trials and counsel at public expense may be constitutionally required, although the bill classifies these offenses as violations. Since cases requiring jury trials must be processed as misdemeanors before a district court judge, whereas cases which do not require a jury trial can be processed similarly to traffic infractions, it would be helpful if the intent regarding the availability of jury trials and counsel for these offenses could be clarified.

Thank you for this opportunity to submit comments. If I can provide further information to the committee, please let me know.

Sincerely,



Karla Forsythe
General Counsel

cc: Arthur H. Snowden, II
Peter Froehlich
Lisa Nelson

Attachment
KF:lae

PROPOSED LANGUAGE

SENATE BILL 82

Form and issuance of citation. (a) When an authorized employee stops or contacts a person concerning a violation, the employee may issue a citation to the person as provided in A.S. 12.25.180.

(b) The supreme court shall specify by rule or order those violations that are appropriate for disposition without court appearance, and shall establish a schedule of bail amounts. The maximum bail forfeiture amount for an offense may not exceed the maximum fine specified by law for that offense. If the violation for which the citation is issued may be disposed of without court appearance, the issuing employee shall write on the citation the amount of bail forfeiture applicable to the violation.

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

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

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

(d) When bail has been forfeited under (c) of this section, a judgment of conviction shall be entered. Forfeiture of bail is a complete satisfaction for the violation. The clerk of the court accepting the bail forfeiture shall provide the offender with a receipt stating that fact.

(e) If the person cited fails to pay the bail forfeiture amount established under (b) of this section or to appear in court as required, the citation is considered a summons for a misdemeanor.

(f) Notwithstanding other provisions of law, if a person cited for a violation for which a bail forfeiture amount has been established under (b) of this section appears in court and is found guilty, the penalty that is imposed for the offense may not exceed the bail forfeiture amount for that offense established under (b) of this section.

AK TOURISM JNU
PERMITS II AHG

TO: JOE SWANSON, DIRECTOR
DIVISION OF MEASUREMENT STANDARDS
C/O DEPARTMENT OF COMMERCE
TOURISM DIVISION
JUNEAU, AK

FROM: A. D. THOMPSON, CHIEF
SECTION OF PERMITS &
WEIGH STATIONS
ANCHORAGE, AK

	FY 83	FY 84	1/2 FY 85
1. NO PERMIT		131	227
2. PERMIT VIOLATIONS		118	183
3. PERMIT CORRECTIONS		202	156
	-----	-----	-----
TOTAL	##297	451	566

1. OVERSIZE VEHICLE TRAVELING WITH NO PERMIT.
2. A VIOLATION OF PERMIT CONDITIONS WHICH REQUIRED THE APPROVAL OF THE PERMIT OFFICE PRIOR TO CONTINUING TRIP.
3. A VIOLATION OF PERMIT CONDITIONS THAT WHERE A PERMIT CORRECTION FORM WAS ISSUED BY A WEIGHT STATION OPERATOR.

REPRESENTS NINE MONTHS OF FY 83. UNABLE TO SEPARATE BY TYPE.*

AK TOURISM JNU

PERMITS II AHG

K

TOD FEB 11 85

OVERSIZE PERMIT VIOLATIONS - AT SCALE HOUSES

CSSB 82 (Trans)

OUTLINE FOR FLOOR STATEMENT

- Most of the bill is housekeeping, making gender and grammatical changes, and replacing "director" with "commissioner" in a multitude of occurrences.

- Substantive change in Section 14, which in the original and in the CS allows the department to issue citations for oversize and overweight violations. This is to close a loophole that has existed since 1982, when the scale houses were transferred to Commerce from Public Safety. Currently, department personnel can stop a violator, but cannot issue a citation.

Additionally, in the CS, a provision has been made, at the request of the Court System, to allow for them to establish a bail forfeiture schedule, so that not all of these violations will have to come to court.

- 2nd substantive change is in section 27, where it is a violation to hinder or obstruct certain department personnel in their performance of duties, to violate an oversize or overweight permit, or regulation.

- Additionally, the original bill would have set the fine for overweight violations at \$300 plus 5 cents a pound, and the CS puts it back to the current rate of 5 cents a pound. Testimony indicated that with the heavier fine, the violation could be propelled into a higher class of crime by the constitution.

- Repealers:

AS 28.40.050(e) is the current 5 cents a pound fine, which is placed elsewhere in the statutes by the CS.

AS 45.75.360 is current prohibition of hindering or obstructing an officer, which is recodified elsewhere by the CS.

REQUESTED PROCEDURE TO MOVE COMMITTEE SUBSTITUTE FOR SB 82

- AFTER THE SENATE SECRETARY BRINGS UP THE SB 82 AS THE "NEXT ORDER OF BUSINESS", AND SAYS SHE HAS ONE COMMITTEE SUBSTITUTE ON HER DESK,

- MOVE AND ASK UNANIMOUS CONSENT THAT THE TRANSPORTATION COMMITTEE SUBSTITUTE BE ADOPTED.

Offered: 2/26/85
Referred: Labor & Commerce
and Finance

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE
2 CS FOR SENATE BILL NO. 82 (Transportation)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH 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 45.75.030 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 TIES OF COMMISSIONER [DI-
16 RECTOR]. 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 enforce this chapter, implement AS 44.33.020(25), and
21 [. HE SHALL] supervise the weights and measures offered for sale,
22 sold, or in use in the state.

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

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

28 * Sec. 4. AS 45.75.050(b) is amended to read:

29 (b) The regulations may include

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

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

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

11 (4) for [WITH RESPECT TO] classes of weights and measures
12 of a character that annual retesting is unnecessary to continued
13 accuracy, exemptions from the requirements of AS 45.75.070 and 45.75.-
14 080 for annual testing, and schedules fixing the frequency of required
15 retests for classes of devices exempted;

16 (5) in the implementation of AS 44.33.020(25), provisions
17 governing the enforcement of the size, weight, and load limitations
18 established under AS 19.10.060; the issuance of, and the enforcement
19 of the terms of, permits for overweight and oversize vehicles; and the
20 operation of weigh stations.

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

22 (d) The specifications, tolerances, and regulations for commer-
23 cial weighing and measuring devices, together with amendments to them,
24 as recommended by the National Bureau of Standards and published in
25 National Bureau of Standards Handbook 44 and supplements to it, or in
26 any publication revising or superseding Handbook 44, are the specifi-
27 cations, tolerances, and regulations for commercial weighing and
28 measuring devices of the state, except as specifically modified,
29 amended, or rejected by a regulation adopted [ISSUED] by the

1 commissioner [DIRECTOR].

2 * Sec. 6. AS 45.75.060 is amended to read:

3 Sec. 45.75.060. OFFICE AND FIELD [WORKING] STANDARDS AND EQUIP-
4 MENT. The commissioner [STATE] shall maintain [SUPPLY THE DIVISION OF
5 WEIGHTS AND MEASURES WITH] a duplicate set of state standards of
6 weight and measure, referred to in this chapter as office standards.
7 The commissioner [STATE] shall also supply field standards and the
8 equipment that [WHICH] is necessary to carry out this chapter. The
9 commissioner shall verify the office standards and field standards on
10 [SHALL BE VERIFIED UPON] their initial receipt and at least once each
11 year afterward. The commissioner shall verify the office standards
12 [SHALL BE VERIFIED] by direct comparison with the state standards.
13 The commissioner shall verify the [THE] field standards [SHALL BE
14 VERIFIED] by comparison with the office standards.

15 * Sec. 7. AS 45.75.070 is amended to read:

16 Sec. 45.75.070. TESTING AND INSPECTION OF LOCAL STANDARDS AND
17 WEIGHTS AND MEASURES AT STATE-SUPPORTED INSTITUTIONS. (a) At least
18 once every five years, the commissioner [DIRECTOR] shall test the
19 standards of weight and measure obtained by a city that [WHICH] has
20 appointed a sealer of weights and measures, and shall approve them if
21 they are correct. The commissioner [DIRECTOR] shall inspect the
22 standards at least once every two years.

23 (b) The commissioner [DIRECTOR] shall from time to time test all
24 weights and measures used in checking the receipt or disbursement of
25 supplies in every institution maintained by money appropriated by the
26 legislature, and shall report the commissioner's [HIS] findings, in
27 writing, to the supervisory board and to the executive officer of the
28 institution concerned.

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

1 (a) The commissioner [DIRECTOR] may inspect and test, to ascer-
2 tain if they are correct, all weights and measures kept, offered, or
3 exposed for sale. The commissioner [DIRECTOR] shall, at least annu-
4 ally [SEMIANNUALLY AND MORE OFTEN AS HE CONSIDERS NECESSARY], inspect
5 and test, to ascertain if they are correct, all weights and measures
6 commercially used

7 (1) in determining the weight, measurement, or count of
8 commodities or things sold, or offered or exposed for sale, on the
9 basis of weight or of measure;

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

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

14 * Sec. 9. AS 45.75.090 is amended to read:

15 Sec. 45.75.090. INVESTIGATIONS. The commissioner [DIRECTOR]
16 shall investigate complaints of violations of this chapter, and shall
17 [, UPON HIS OWN INITIATIVE,] conduct other [THE] investigations that
18 the commissioner [WHICH HE] considers appropriate and advisable to
19 develop information on prevailing procedures in commercial quantity
20 determination, [AND] on possible violations of this chapter, and to
21 promote the general objective of accuracy in the determination and
22 representation of quantity in commercial transactions.

23 * Sec. 10. AS 45.75.100 is amended to read:

24 Sec. 45.75.100. INSPECTION OF PACKAGES. (a) The commissioner
25 [DIRECTOR] shall, from time to time, weigh or measure and inspect
26 packages or amounts of commodities kept, offered, or exposed for sale
27 to determine whether they contain the amounts represented and whether
28 they are kept, offered, or exposed for sale in accordance with law.
29 When packages or amounts of commodities do not contain the amounts

1 represented, or are kept, offered, or exposed for sale in violation of
2 law, the commissioner [DIRECTOR] may order them off sale and may mark
3 or tag them to show they are illegal. The commissioner [DIRECTOR] may
4 use recognized sampling procedures. The commissioner shall determine
5 the compliance [COMPLIANCE] of a given lot of packages [SHALL BE
6 DETERMINED] on the basis of the result obtained on a sample selected
7 from and representative of the lot.

8 (b) A [NO] person may not

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

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

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

19 (a) The commissioner [DIRECTOR] may issue stop-use orders,
20 stop-removal orders, and removal orders for weights and measures used
21 or capable of being used commercially. The commissioner [DIRECTOR]
22 may issue stop-removal orders and removal orders for packages or
23 amounts of commodities kept, offered, or exposed for sale whenever the
24 commissioner [HE] considers it necessary or expedient in enforcing
25 this chapter.

26 * Sec. 12. AS 45.75.120 is amended to read:

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

28 (a) The commissioner [DIRECTOR] shall approve for use and seal or
29 mark with appropriate devices the weights and measures that the

1 commissioner [WHICH HE] finds on [UPON] inspection and test to be cor-
2 rect as provided in AS 45.75.050, and shall reject and mark or tag as
3 "rejected" the weights and measures that are found [WHICH HE FINDS],
4 upon inspections or testing [TEST], to be incorrect as provided in
5 AS 45.75.050 but which in the commissioner's [HIS] best judgment may
6 be satisfactorily repaired [ARE SUSCEPTIBLE OF SATISFACTORY REPAIR].
7 This sealing or marking is not required for weights and measures
8 exempted by regulation [OF THE DIRECTOR].

9 (b) The commissioner [DIRECTOR] shall condemn, and may seize and
10 destroy weights and measures found to be incorrect that [WHICH], in
11 the commissioner's [HIS] best judgment, cannot be satisfactorily
12 repaired [ARE NOT SUSCEPTIBLE OF SATISFACTORY REPAIR]. Weights and
13 measures that [WHICH] are rejected under (a) of this section may be
14 confiscated and destroyed by the commissioner [DIRECTOR] if not cor-
15 rected as required by AS 45.75.180 or if used or disposed of contrary
16 to the requirements of AS 45.75.180.

17 * Sec. 13. AS 45.75.130 is amended to read:

18 Sec. 45.75.130. POLICE POWERS AND RIGHT OF ENTRY AND STOPPAGE.
19 In the enforcement of this chapter and [ANY] other laws [LAW] dealing
20 with weights and measures, the commissioner [DIRECTOR] has special
21 police powers. The commissioner [HE] may arrest, without formal
22 warrant, a [ANY] person violating the law, and seize for use as evi-
23 dence, without formal warrant, incorrect or unsealed weights and
24 measures or amounts or packages of commodity, used, retained, offered,
25 or exposed for sale, or sold in violation of law. In performing these
26 [HIS] duties, the commissioner [DIRECTOR] may enter, without formal
27 warrant, a [ANY] structure or premises, and stop any person and re-
28 quire the person [HIM] to proceed to a specified place.

29 * Sec. 14. AS 45.75 is amended by adding new sections to article 2 to

1 read:

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

7 (1) a load limitation;

8 (2) the terms of an overweight or oversize vehicle permit
9 issued under AS 44.33.020(25) and AS 45.75.040; or

10 (3) the provisions of a regulation adopted under AS 44.33.-
11 020(25) and AS 45.75.050(b)(5).

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

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

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

24 (d) An employee who issues a citation under this section shall
25 deposit the original or a copy of the citation with a court having
26 jurisdiction over the alleged offense. Upon its deposit with the
27 court, the citation may be disposed of only by trial in the court or
28 other official action taken by the magistrate, judge, or prosecutor.
29 The employee who issued the citation may not dispose of it or copies

1 of it or of the record of its issuance except as required under this
2 subsection and (e) of this section.

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

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

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

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

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

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

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

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

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

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

23 * Sec. 15. AS 45.75.140 is amended to read:

24 Sec. 45.75.140. POWERS AND DUTIES OF INSPECTORS [DEPUTY DIRECTOR
25 AND INSPECTOR]. The powers and duties of the commissioner [DIRECTOR]
26 specified in AS 45.75.070 - 45.75.100, 45.75.120, [AS 45.75.070,]
27 45.75.130, and 45.75.170 may [, AND 45.75.380 SHALL] also be exercised
28 by [THE DEPUTY DIRECTOR AND] inspectors, when acting under the in-
29 structions and at the direction of the commissioner [DIRECTOR].

1 * Sec. 16. AS 45.75.150 is amended to read:

2 Sec. 45.75.150. APPOINTMENT OF CITY SEALERS AND DEPUTY SEALERS
3 OF WEIGHTS AND MEASURES. (a) A city may appoint a sealer of weights
4 and measures, and the deputy sealers of weights and measures it needs.
5 If the city appoints a sealer, the city [IT] shall obtain at its
6 expense the standards of weight and measure [WEIGHTS AND MEASURES] and
7 the additional equipment, for use in the enforcement of this chapter
8 in the city, which the commissioner [DIRECTOR] prescribes.

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

16 * Sec. 17. AS 45.75.160 is amended to read:

17 Sec. 45.75.160. CITY SEALERS AND DEPUTY SEALERS. The sealer of
18 a city, and the sealer's [HIS] deputy [SEALER] when acting under the
19 sealer's [HIS] instructions and [AT HIS] direction, have the same
20 powers and shall perform the same duties within the city as those
21 granted to and imposed upon the commissioner [DIRECTOR] by AS 45.75.-
22 080 - 45.75.130 and 45.75.380.

23 * Sec. 18. AS 45.75.170 is amended to read:

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

27 * Sec. 19. AS 45.75.180 is amended to read:

28 Sec. 45.75.180. DUTY OF OWNERS OF INCORRECT APPARATUS. Weights
29 and measures rejected by the commissioner [DIRECTOR] or a sealer

1 remain subject to the control of the rejecting authority until suit-
2 able repair or disposition of them is made as required by this sec-
3 tion. The owner of a rejected weight and measure shall correct it
4 within 30 days or a longer period authorized by the rejecting author-
5 ity, [;] or [,] may dispose of it in the manner authorized by the
6 rejecting authority. The owner of rejected [REJECTED] weights and
7 measures may not use them again [BE USED] commercially until the
8 rejected weights and measures are officially reexamined [RE-EXAMINED]
9 and found to be correct or until specific written permission for their
10 use is issued by the rejecting authority.

11 * Sec. 20. AS 45.75.190(c) is amended to read:

12 (c) The commissioner [DIRECTOR] may adopt [ISSUE] reasonable
13 regulations necessary to assure that a seller determines the amounts
14 of commodity sold [ARE DETERMINED] in accordance with good commercial
15 practice and in an accurate and informative manner [AND ARE SO DETER-
16 MINED AND REPRESENTED AS TO BE ACCURATE AND INFORMATIVE].

17 * Sec. 21. AS 45.75.200(c) is amended to read:

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

20 (1) reasonable variations or tolerances to be allowed, that
21 [WHICH] may include variations below the declared weight or measure
22 caused by ordinary and customary exposure, only after the commodity is
23 introduced into intrastate commerce, to conditions that normally occur
24 in good distribution practice and that unavoidably result in decreased
25 weight or measure,

26 (2) exemptions for [EXEMPTION AS TO] small packages, and

27 (3) exemptions for [AS TO] commodities put up in variable
28 weights or sizes for sale to the consumer intact and either customar-
29 ily not sold as individual units or customarily weighed or measured at

1 the time of sale to the consumer.

2 * Sec. 22. AS 45.75.220 is amended to read:

3 Sec. 45.75.220. MISLEADING PACKAGES. A [NO] commodity in pack-
4 age form may not be so wrapped, or put in a container so made, formed,
5 or filled as to mislead the purchaser about [AS TO] the quantity of
6 the contents of the package, and the contents of a container may not
7 fall below the reasonable standard of fill that [WHICH] the commis-
8 sioner [DIRECTOR] prescribes for the commodity.

9 * Sec. 23. AS 45.75.282(b) is amended to read:

10 (b) The vendor shall retain one [ONE] of the tickets provided
11 for in (a) of this section [SHALL BE RETAINED BY THE VENDOR,] and
12 shall deliver the other [SHALL BE DELIVERED] to the purchaser at the
13 time of delivery of the commodity, or surrender the other [SURREN-
14 DERED], on demand, to the commissioner [DIRECTOR, OR THE DEPUTY DIREC-
15 TOR,] or an inspector, or a sealer[,] or a deputy sealer, who may [,
16 IF HE WANTS TO] retain it as evidence and, if it is retained, the
17 commissioner or deputy sealer [,] shall issue a weight slip in place
18 of it.

19 * Sec. 24. AS 45.75.290(b) is amended to read:

20 (b) The vendor shall retain one [ONE] of the tickets provided
21 for under (a) of this section [SHALL BE RETAINED BY THE VENDOR] and
22 shall deliver the other [SHALL BE DELIVERED] to the purchaser at the
23 time of delivery of the fuel, or shall surrender it, [BE SURRENDERED,]
24 on demand, to the commissioner [DIRECTOR, OR THE DEPUTY DIRECTOR] or
25 an inspector, or a sealer or deputy sealer, who may [, IF HE DESIRES
26 TO] retain it as evidence and [, SHALL] issue a weight slip in place
27 of it for delivery to the purchaser. If the purchaser carries away
28 the [HIS] purchase, the vendor is required only to give to the pur-
29 chaser at the time of sale a delivery ticket stating the number of

1 pounds of fuel delivered to the purchaser [HIM].

2 * Sec. 25. AS 45.75.300 is amended to read:

3 Sec. 45.75.300. TEXTILE PRODUCTS. It is unlawful for a person
4 to keep for the purpose of sale, offer or expose for sale, or sell
5 textile yard goods put up or packaged in advance of sale in a bolt or
6 roll, or another [ANY OTHER] textile product put up or packaged in
7 advance of sale in another [ANY OTHER] unit, for wholesale or retail
8 sale, unless the person definitely, plainly and conspicuously marks
9 the bolt or roll, or other unit [, IS DEFINITELY, PLAINLY, AND CON-
10 SPICUOUSLY MARKED] to show its net measure in terms of yards or its
11 net weight, in terms of avoirdupois pounds or ounces, subject to the
12 following limitations and requirements:

13 (1) a unit of twine or cordage may be marked to show its
14 net measure in terms of feet; readywound bobbins not sold separately
15 are not required to be individually marked, but the package containing
16 the bobbins shall be marked to show the number of bobbins contained in
17 it and the net weight or measure of the thread on each bobbin; a unit
18 of sewing, basting, mending, darning, crocheting, tatting, hand-
19 knitting, or embroidery thread or yarn, except nylon hand-knitting
20 yarn, that is not composed in whole or in part of wool, the net weight
21 of which is less than two ounces avoirdupois, shall be marked to show
22 its net measure in terms of yards as unwound from the ball or from the
23 spool or other holder; a retail unit of a textile product sold only
24 for household use consisting of a package containing two or more
25 similar individual units that are not sold separately shall be marked
26 to show the number of individual units in the package and the net
27 weight or net measure of the product in each individual unit, but this
28 does not apply where the individual units are separately marked; a
29 unit of yarn, composed in whole or in part of wool, sold to consumers

1 for handiwork, shall be marked to show the net weight of the yarn,
2 except that a [ANY SUCH] un . f. tapestry, mending, or embroidery yarn
3 that [THE NET MEASURE OF WHICH] does not exceed 50 yards in net mea-
4 sure, may be marked to show its linear measure only;

5 (2) the marking required by this section shall in all cases
6 be in combination with the name and place of business of the manufac-
7 turer, packer, or distributor of the product, or a trademark, symbol,
8 brand, or other mark that identifies the manufacturer, packer, or
9 distributor;

10 (3) reasonable tolerances shall be permitted, and the
11 commissioner shall include reasonable tolerances [THESE SHALL BE
12 INCLUDED] in regulations adopted for the enforcement of this section
13 [THAT ARE ISSUED BY THE DIRECTOR];

14 (4) this section does not apply to the following textile
15 products when sold at wholesale in bulk by net weight: cordage, agri-
16 cultural bag sewing threads, twines, yarns that are to be processed,
17 and yarns that are to be industrially converted into end-use products.

18 * Sec. 26. AS 45.75.330 is amended to read:

19 Sec. 45.75.330. INJUNCTION. The commissioner [DIRECTOR] may
20 apply to a court for a temporary or permanent injunction restraining a
21 person from violating a provision of this chapter.

22 * Sec. 27. AS 45.75.380 is amended to read:

23 Sec. 45.75.380. OFFENSES AND PENALTIES. (a) A person commits a
24 violation subject to the penalty specified in AS 12.55.035(b)(5) if
25 the person does one or more of the following acts [A PERSON WHO, BY
26 HIMSELF OR BY HIS SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF
27 ANOTHER, PERFORMS ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A MISDE-
28 MEANOR AND UPON A FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE BY A
29 FINE OF NOT LESS THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT FOR

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

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

10 (2) uses or has in possession for current use, in buying or
11 selling a commodity or thing, or for hire or award, or in the computa-
12 tion of a basic charge or payment for services rendered on the basis
13 of weight or measurement, or in the determination of weight or mea-
14 surement when a charge is made for determination, a weight or measure
15 that has not been tested and sealed by the appropriate authority
16 within one year, (A) unless the person gives written notice [IS GIVEN]
17 to the appropriate authority to the effect that the weight or measure
18 is available for examination, or is due for reexamination [RE-EXAMINA-
19 TION], as the case may be, (B) unless the person receives specific
20 written permission to use the weight or measure [IS RECEIVED] from the
21 appropriate authority, or (C) unless the weight or measure is exempt
22 from sealing or annual testing requirements by AS 45.75.080 or by a
23 regulation adopted [OF THE DIRECTOR ISSUED] under AS 45.75.050;

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

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

29 (5) sells or[,] offers [OR EXPOSES] for sale less than the

1 quantity the person [HE] represents of a commodity, thing, or service;

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

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

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

17 (9) hinders or obstructs the commissioner, an inspector, a
18 sealer, or a deputy sealer in the performance of official duties under
19 this chapter;

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

22 (11) violates a weight, load, or size limitation established
23 under AS 19.10.060 or a regulation adopted under AS 19.05.020, AS 44.-
24 33.020(25), or AS 45.75.050(b)(5);

25 (12) violates a provision of this chapter or of a regulation
26 adopted under this chapter for which a specific penalty is not pre-
27 scribed.

28 (b) Notwithstanding the maximum fine for a violation provided
29 under (a) of this section, the commissioner shall impose on a person

1 who violates a regulation or special permit governing the weight limit
2 of a motor vehicle a maximum penalty of \$.05 for each pound of weight
3 over the authorized weight limit for the vehicle.

4 * Sec. 28. AS 45.75.390(4) is repealed and reenacted to read:

5 (4) "commissioner" means the commissioner of commerce and
6 economic development or the commissioner's designee;

7 * Sec. 29. AS 28.40.050(e) and AS 45.75.360 are repealed.

8 * Sec. 30. This Act takes effect immediately in accordance with AS 01.-
9 10.070(c).

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 82
 Title: "An Act relating to weights and measures..."
 Sponsor: Rules Comm. for Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Marcia Lynn McKenzie Phone: 465-4349
 Division: Administrative Services Date: 1/8/84

Approved by Commissioner: [Signature] Date: 1/8/84
 Agency: Department of Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies) **ZERO FISCAL NOTES (2)**

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
 Bill/Resolution No.: SB 8802
 Title: Relating to weights and measures
 Sponsor: Rules/Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL
 Agency Affected: Commerce & Econ. Dev.
 Program Category Affected: Consumer Protection
 BRU, Program or Subprogram(s) Affected: Measurement Standard

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Joseph L. Swanson Phone: 345-7750
 Division: Measurement Standards Date: 12/4/84
 Approved by Commissioner Richard A. Lyon Date: 12.5.84
 Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

Measurement Standards

Alaska State Legislature

SENATOR
JOHN B. "JACK" COGHILL
Chairman

Senator Jan Faiks—Vice Chairman
Senator Mitch Abood
Senator Paul Fischer
Senator Joe Josephson



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4921

Senate Committee on MEMORANDUM **Transportation**

TO: MEMBERS OF THE COMMITTEE

FROM: SENATOR COGHILL

DATE: 2-6-85

RE: SB 82

In addition to cleaning up language in statutes dealing with weights and measures SB 82 proposes to complete the transfer of weights and measures from Department of Public Safety to the Department of Commerce and Economic Development by giving DCED personnel the authority to write citations. Included is the authority to arrest violators of regulations adopted under provision of the bill, to seize any commodity offered for sale in violation of weight and measurement standards, and to provide for deposition of citations by trial or other official action. The committee staff expects a position paper by the General Council of the Alaska Court System regarding the disposition of citations included in the bill.

Section 26 revises the penalty clause for certain offenses to conform with the new criminal code by making them "violations" with the penalty prescribed by AS 12.55.035(b)(5) a maximum \$300 fine. Subsection (b) provides for a five cents per pound fine in addition to the \$300 fine for each pound over legal weight restrictions. Section 26 then makes it a violation to hinder or obstruct officials doing their duties; to violate the provision of an oversize or overweight permit; or to violate size, weight or load regulations.

Section 27 repeals definition of "director" and re-enacts it as "commissioner" for consistency with the rest of the bill.

Section 28 Repeals AS 28.40.050(e)-overweight penalty clause levying five cents per pound fine, and AS 45.75.300-hindering or obstructing an officer, taken care of in Sec. 26

The remaining sections and of the bill are simply housekeeping/updating of outdated language, those are: Sections 1, 3, 5 through 7, 9 through 12, and 14 through 25.

STAFF MEMOS FEB 6, 8 & 25

Alaska State Legislature

SENATOR
JOHN B. "JACK" COGHILL
Chairman

Senator Jan Falks—Vice Chairman
Senator Mitch Abood
Senator Paul Fischer
Senator Joe Josephson



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4921

Senate Committee on Transportation

MEMORANDUM

To: Committee members *JJ*
From: Committee staff
Date: Friday, February 8, 1985
Re: Proposed amendments to SB 82

Attached you will find two amendments to SB 82 proposed for consideration by the committee this afternoon. The first would re-write language regarding violations to allow the court system to process citations through a bail forfeiture schedule. Attached to the amendment are copies of three occurrences of bail forfeiture mechanisms for similar violations. This amendment should answer the first concern expressed by Karla Forsythe of the Alaska Court System - that without a bail forfeiture provision the court system would be overloaded. This was detailed in the letter you should have received earlier today from this staff.

The second proposed amendment would reduce the fine for overweight violations from "up to \$300 plus 5 cents per pound" to "5 cents per pound over the authorized weight." This amendment reverts the penalty back to what it now reads in statute, as well as to answer the court system's second concern - that higher fines constitutionally propel the violation into a criminal offense status.

Both of these amendments have been approved in concept by the director of the division of measurement standards.

Alaska State Legislature

SENATOR
JOHN B. "JACK" COGHILL
Chairman

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4921



Senator Jan Falks—Vice Chairman
Senator Mitch Abood
Senator Paul Fischer
Senator Joe Josephson

Senate Committee on Transportation

MEMORANDUM

To: Committee members
From: Committee Staff *Jm*
Date: February 25, 1985
Re: Proposed CS for SB 82

As per the discussion of SB 82, making changes to weights and measures statutes, that took place at the committee meeting of February 8, we have had the attached committee substitute drawn up.

Aside from the two substantial changes the members asked for, which are found in sections 14 and 27 of the proposed cs, the bill remains nearly identical to the original (a number of minor gender and grammatical changes were incorporated by legal services).

The change in section 14 (originally part of section 13) adds language to integrate the court system's request for a mechanism to allow for a bail forfeiture schedule.

The change in section 27 deletes the imposition of a \$300 fine on top of \$.05 per pound for overweight violations, and sets the entire fine at \$.05 per pound over the authorized weight.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

AS 82

January 22, 1985

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Attached is a bill amending the Weights and Measures Act, AS 45.75.

In 1982, the overweight and oversize motor vehicle program was transferred from the Department of Public Safety to the Department of Commerce and Economic Development. This transfer included the duties of operating vehicle weighing stations, issuing permits for overweight and oversize vehicles, and enforcing the vehicle size, weight, and load limits established by the Department of Transportation and Public Facilities (DOTPF). (Ch. 77, SLA 1982)

The 1982 transfer of duties was accomplished only by repealing AS 28.05.011(8) and adding a paragraph (25) to the general duties of the Department of Commerce and Economic Development listed in AS 44.33.020. This bill completes the transfer by also adding those duties to the Weights and Measures Act (secs. 2 and 4 of the bill). The bill also decreases the frequency of required inspections and tests of all weights and measures from semiannual to annual (sec. 8 of the bill). More frequent inspections and tests can still be made in problem areas, however.

Section 13 of the bill clarifies that the commissioner of commerce and economic development may authorize department employees to arrest or issue citations to persons who violate the DOTPF vehicle size, weight, and load limits, the provisions of an overweight or oversize vehicle permit, or department regulations. It also specifies procedures and rules governing those citations. This eliminates an ambiguity and possible loophole left after the 1982 transfer of enforcement authority to the department.

Section 26 of the bill amends AS 45.75.380 to increase the current maximum fine for all weights and measures offenses

GOVERNOR'S TRANSMITTAL LETTER

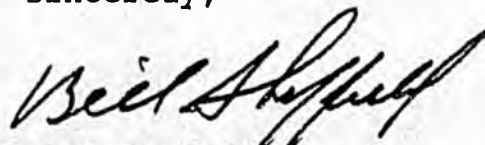
from \$200 (or five cents a pound for overweight vehicle offenses) to a \$300 fine (plus five cents a pound for overweight vehicle offenses). By making these offenses subject to the violation penalty set out in AS 12.55.035(b)(5), they are like AS 28.40.050(c)'s "infractions," and the possibility of imprisonment would be dropped, as would the increase in penalties for subsequent convictions. This change conforms to the new Criminal Code (AS 11) and the Code of Criminal Procedure (AS 12) and will provide a more effective deterrent to weights and measures violations. Severe penalties and certainty of conviction are two deterrents to unlawful conduct. It is felt that there is a greater probability of conviction under the "infraction" approach and that it would be the more effective deterrent to the various weights and measures offenses -- both statutory and regulatory. Also, under AS 45.75.130(g) (in sec. 13 of the bill), failure to respond to a citation for one of these violations would be a class B misdemeanor; cf. AS 12.25.230.

Most of the bill, including secs. 1 -- 3 and 5 -- 26, clarifies a confusing approach taken by the 1961 legislature which passed the Weights and Measures Act. For reasons which are not now clear, and which, to the extent that we can guess what they were, no longer apply, AS 47.75.030 states that the commissioner of commerce and economic development is the director of weights and measures, and throughout the chapter many references are made to the director. To avoid confusion with the director of the division of measurement standards, who is currently assigned to administer the Act, this bill changes all of those references to the director to be references to the commissioner.

The bill also makes "housekeeping" amendments to clean up outdated language and to correct several citations.

All of these changes in the Weights and Measures Act will increase the effectiveness and efficiency of implementation of the Act, especially the overweight and oversize vehicle program.

Sincerely,



Bill Sheffield
Governor

Alaska State Legislature

SENATOR
JOHN B. "JACK" COGHILL
Chairman

Senator Jan Falks—Vice Chairman
Senator Mitch Ahoob
Senator Paul Fischer
Senator Joe Josephson



POUCH V
JUNEAU, ALASKA 99811
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Senate Committee on Transportation

MEMORANDUM

To: Committee members *jm*
From: Committee staff
Date: Friday, February 8, 1985
Re: Proposed amendments to SB 82

Attached you will find two amendments to SB 82 proposed for consideration by the committee this afternoon. The first would re-write language regarding violations to allow the court system to process citations through a bail forfeiture schedule. Attached to the amendment are copies of three occurrences of bail forfeiture mechanisms for similar violations. This amendment should answer the first concern expressed by Karla Forsythe of the Alaska Court System - that without a bail forfeiture provision the court system would be overloaded. This was detailed in the letter you should have received earlier today from this staff.

The second proposed amendment would reduce the fine for overweight violations from "up to \$300 plus 5 cents per pound" to "5 cents per pound over the authorized weight." This amendment reverts the penalty back to what it now reads in statute, as well as to answer the court system's second concern - that higher fines constitutionally propel the violation into a criminal offense status.

Both of these amendments have been approved in concept by the director of the division of measurement standards.

PROPOSED AMENDMENT

TO

SB 82 - Weights and measures cleanup bill

On Page 7, line 4, Delete

Line 4 beginning with "A citation issued..."

and Lines 5 through 9 in their entirety;

On Page 7, line 16, Delete

Subsection (d) in its entirety;

On Page 8, line 2, Delete

Subsections (f) and (g) in their entirety.

Renumber remaining subsections of Section 13 as appropriate

On Page 8, line 13, add a new Section 14 to read:

"* Sec. 14. AS 45.75 is amended by adding a new subsection to read:

Sec. 45.75.135. FORM AND ISSUANCE OF CITATION. (a) When an authorized employee stops or contacts a person concerning a violation, the employee may issue a citation to the person. The person receiving the citation may not be required to endorse the citation.

(b) The supreme court shall specify by rule or order those violations that are appropriate for disposition without court

AMENDMENT NO 1

appearance, and shall establish a schedule of bail amounts. The maximum bail forfeiture amount for an offense may not exceed the maximum fine specified by law for that offense. If the violation for which the citation is issued may be disposed of without court appearance, the issuing employee shall write on the citation the amount of bail forfeiture applicable to the violation.

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

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

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

(d) When bail has been forfeited under (c) of this section, a judgment of conviction shall be entered. Forfeiture of bail is a complete satisfaction for the violation. The clerk of the court accepting the bail forfeiture shall provide the offender with a receipt stating that fact.

(e) If the person cited fails to pay the bail forfeiture amount established under (b) of this section or to appear in court as required, the citation is considered a summons for a misdemeanor.

(f) Notwithstanding other provisions of law, if a person cited for a violation for which a bail forfeiture amount has been established under (b) of this section appears in court and is found guilty, the penalty that is imposed for the offense may not exceed the bail forfeiture amount for that offense established under (b) of this section."

And renumber the remaining sections accordingly

Article 4. Disposition of Certain Vehicle and Traffic Offenses.

Section

151. Form and issuance of citation

Sec. 28.05.151. Form and issuance of citation. (a) When a person is arrested or cited for the commission of a vehicle or traffic offense which is a misdemeanor or an infraction, the arresting or citing officer shall, except when otherwise required by law or the immediate circumstances, issue a citation to the person arrested or cited. The person receiving the citation may not be required to endorse the citation.

(b) The state supreme court shall determine by rule or order those vehicle and traffic offenses that are amenable to disposition without court appearance and shall establish a schedule of bail amounts, not to exceed fines prescribed by law, for each offense. If the offense for which the citation is issued is one which may be disposed of without court appearance, the citing officer shall write on the citation the amount of bail applicable to the cited offense.

(c) A person cited for a motor vehicle or traffic offense for which a bail amount has been established under (b) of this section may, within five days from the date of the citation, mail or personally deliver to the clerk of the court having jurisdiction over the place where the offense occurred

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

(2) a copy of the citation signed by the person on an appropriate blank on the citation indicating the person's waiver of appearance, plea of no contest, and direction to forfeit the bail.

(d) When bail has been forfeited under this section, a judgment of conviction shall be entered. Bail forfeited under this section is a complete satisfaction for the offense, and the offender shall be given a receipt stating that fact.

(e) If the person cited fails to pay the bail amount or appear in court as required, the citation shall be considered a summons as for a charge of a misdemeanor and the person shall be proceeded against in the manner prescribed by law. However, the maximum penalty which may be imposed for the original offense may not exceed the bail amount for that offense set out in the schedule of bail amounts as determined by the supreme court under (b) of this section.

(f) A municipality shall adopt a citation form which complies with the requirements of this section and is at least equivalent to that adopted by the commissioner under AS 28.05.041. (§ 6 ch 178 SLA 1978)

VEHICLE & TRAFFIC OFFENSES

FISH & GAME CITATIONS

Sec. 16.05.160. Duty to arrest. Each peace officer designated in AS 16.05.150 shall arrest a person violating a provision of this title except AS 16.51 and AS 16.52, or any regulation adopted under this title except AS 16.51 and AS 16.52, in the peace officer's presence or view, and shall take the person for examination or trial before an officer or court of competent jurisdiction unless in the judgment of the peace officer it would be in the state's best interest to issue a warning or a citation under AS 16.05.165. (§ 21 art I ch 94 SLA 1959; am § 5 ch 132 SLA 1984)

Effect of amendments. — The 1984 amendment, effective July 3, 1984 substituted "a provision of this title except AS 16.51 and AS 16.52, or any regulation adopted under this title except AS 16.51 and AS 16.52" for "this chapter, or any regulation made under this chapter," deleted "immediately" preceding "for examination or trial," and added the language beginning "unless in the judgment of the peace officer" at the end of the section.

Sec. 16.05.165. Form and issuance of citation. (a) When a peace officer stops or contacts a person concerning a violation of this title except AS 16.51 and AS 16.52 or of a regulation adopted under this title except AS 16.51 and AS 16.52 that is a misdemeanor, the peace officer may, in the officer's discretion, issue a citation to the person as provided in AS 12.25.180.

(b) The supreme court shall specify by rule or order those misdemeanors that are appropriate for disposition without court appearance, and shall establish a schedule of bail amounts. Before establishing or amending the schedule of bail amounts required by this subsection, the supreme court shall appoint and consult with an advisory committee consisting of two officers of the division of fish and wildlife protection of the Department of Public Safety, two representatives of the Department of Fish and Game, two district court judges, and the chairpersons of the House and Senate Judiciary Committees of the legislature. The maximum bail amount for an offense may not exceed the maximum fine specified by law for that offense. If the misdemeanor for which the citation is issued may be disposed of without court appearance, the issuing peace officer shall write on the citation the amount of bail applicable to the violation.

(c) A person cited for a misdemeanor for which a bail amount has been established under (b) of this section may, within 15 days after the date of the citation, mail or personally deliver to the clerk of the court in which the citation is filed by the peace officer

- (1) the amount of bail indicated on the citation for that offense; and
- (2) a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered and the bail is forfeited.

(d) When bail has been forfeited under (c) of this section, a judgment of conviction shall be entered. Forfeiture of bail and all seized items is a complete satisfaction for the misdemeanor. The clerk of the court accepting the bail shall provide the offender with a receipt stating that fact.

(e) If the person cited fails to pay the bail amount established under (b) of this section or to appear in court as required, the citation is considered a summons for a misdemeanor.

(f) Notwithstanding other provisions of law, if a person cited for a misdemeanor for which a bail amount has been established under (b) of this section appears in court and is found guilty, the penalty that is imposed for the offense may not exceed the bail amount for that offense established under (b) of this section. (§ 6 ch 132 SLA 1984)

Effective dates. — Section 30, ch. 132, July 3, 1984, in accordance with AS SLA 1984, makes this section effective 01.10.070(c).

Sec. 16.05.170. Power to execute warrant. Each peace officer designated in AS 16.05.150 may execute a warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of this title except AS 16.51 and AS 16.52, and may, with a search warrant, search any place at any time. The judge of a court having jurisdiction may, upon proper oath or affirmation showing probable cause, issue a warrant in all cases. (§ 21 art I ch 94 SLA 1959; am § 7 ch 132 SLA 1984)

Effect of amendments. — The 1984 amendment, effective July 3, 1984, substituted "this title except AS 16.51 and AS 16.52" for "this chapter" in the first sentence.

Sec. 16.05.180. Power to search without warrant.

NOTES TO DECISIONS

Applied in *Gudjonson v. State*, Ct. App. Op. No. 275 (File Nos. 7291, 7292), 667 P.2d 1254 (1983).

Sec. 16.05.190. Seizure and disposition of equipment.

NOTES TO DECISIONS

Applied in *Jordan v. State*, Ct. App. Op. No. 360 (File No. 7782), P.2d (1984).

Sec. 16.05.195. Forfeiture of equipment.

NOTES TO DECISIONS

Due process requirements. Where the seizure of a fishing vessel is authorized by a judicially approved warrant issued upon probable cause and

PARKS VIOLATIONS

§ 41.21.960

PUBLIC RESOURCES

§ 41.21.960

- (1) an employee of the department authorized by the commissioner;
- (2) a police officer in the state;
- (3) any other person authorized by the commissioner.

(b) Each person designated in (a) of this section may, when enforcing the provisions of this chapter or a regulation adopted under this chapter,

- (1) execute a warrant or other process issued by an officer or court of competent jurisdiction;
- (2) administer or take an oath, affirmation or affidavit; and
- (3) arrest or issue a citation to a person who violates a provision of this chapter or a regulation adopted under this chapter. (§ 1 ch 161 SLA 1970; am § 2 ch 102 SLA 1984)

Effect of amendments. — The 1984 amendment, effective June 15, 1984, inserted "or issue a citation to" in paragraph (3) of subsection (b).

Sec. 41.21.960. Form and issuance of citation. (a) When a peace officer stops or contacts a person concerning the commission of a misdemeanor offense committed within a park or recreational facility subject to the department's supervision, the officer may issue a citation to the person, subject to the provisions of AS 12.25.180 — 12.25.230. The person receiving the citation may not be required to endorse the citation.

(b) The state supreme court shall identify those offenses that are amenable to disposition without court appearance and shall establish by rule or order a schedule of bail amounts, not to exceed fines prescribed by law, for those offenses. Before establishing or amending the schedule of bail amounts required by this subsection, the supreme court shall appoint and consult with an advisory committee consisting of two persons from the Department of Natural Resources, two district court judges, one member of the House Resources Committee, and one member of the Senate Resources Committee of the legislature. If the offense for which the citation is issued is one that may be disposed of without court appearance, the citing officer shall write on the citation the amount of bail applicable to the cited offense.

(c) A person cited for an offense for which a bail amount has been established under (b) of this section may, within 15 days from the date of the citation, mail or personally deliver to the clerk of the court having jurisdiction over the place where the offense occurred

- (1) the amount of bail indicated on the citation for that offense; and
- (2) a copy of the citation indicating the offender's waiver of appearance, plea of no contest, and direction to forfeit the bail and any items seized from the offender.

(d) When bail has been forfeited under this section, a judgment of conviction shall be entered. Bail forfeited under this section and the forfeiture of items seized from the offender is a complete satisfaction for

the offense, and the clerk of the court shall provide the offender with a receipt stating that fact.

(e) If the person cited fails to pay the bail amount or appear in court as required, the citation shall be considered a summons for a misdemeanor charge and the offender shall be proceeded against in the manner prescribed by law.

(f) Notwithstanding other provisions of law, if a person cited for a misdemeanor for which a bail amount has been established under (b) of this section appears in court and is found guilty, the penalty that is imposed for the offense may not exceed the bail amount for that offense established under (b) of this section. (§ 3 ch 102 SLA 1984)

Effective dates. — Section 4, ch. 102, June 15, 1984, in accordance with AS SLA 1984, makes this section effective 01.10.070(c).

Chapter 30. Area Redevelopment.

Section

20. Powers of the board of directors

Sec. 41.30.020. Powers of the board of directors. The board of directors may, in making loans under AS 41.30.040:

(1) cooperate with political subdivisions, communities, and area development organizations, industries, enterprises, and persons in their efforts to promote the expansion of industrial and commercial activities in a redevelopment area;

(2) in the manner most advantageous to the state, dispose of an evidence of debt, a contract, a claim, personal property, or a security assigned to or held by it in connection with a loan made or an evidence of indebtedness purchased by it;

(3) collect or compromise obligations assigned to or held by it, or refer them to the Department of Law for suit or collection;

(4) manage, improve, or sell real property acquired by it. (§ 1 ch 83 SLA 1964)

Editor's notes. — This section is set out above to correct a minor error in the main pamphlet.

Chapter 35. Alaska Historic Preservation Act.

Section

45. Fees for guided tours through historical sites

Sec. 41.35.045. Fees for guided tours through historical sites.

(a) The department may establish and collect fees for guided tours through historical sites.

AMENDMENT NO 2

PROPOSED AMENDMENT

TO

SB 82 - Weights and measures cleanup bill

On Page 15, line 7,

Delete subsection (b) in its entirety, and insert in its place:

(b) Notwithstanding the maximum fine provided for infractions under (a) of this section, for the violation of regulations or special permits issued governing vehicle weight limits, overweight penalties shall be imposed at the rate of five cents for each pound of weight over the authorized weight limit for that vehicle.

COMMITTEE SUBSTITUTE FOR SB 491 (L & C) IS A BILL WHICH AMENDS THE WEIGHTS AND MEASURES ACT, AS 45.75.

IN 1982, THE OVERWEIGHT AND OVERSIZE MOTOR VEHICLE PROGRAM WAS TRANSFERRED FROM THE DEPARTMENT OF PUBLIC SAFETY TO THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT. THIS TRANSFER INCLUDED THE DUTIES OF OPERATING VEHICLE WEIGHING STATIONS, ISSUING PERMITS FOR OVERWEIGHT AND OVERSIZE VEHICLES, AND ENFORCING THE VEHICLE SIZE, WEIGHT , AND LOAD LIMITS.

THE 1982 TRANSFER OF DUTIES WAS ACCOMPLISHED ONLY BY ADDING A PARAGRAPH TO THE GENERAL DUTIES TO THE DEPARTMENT OF COMMERCE. CSSB 491 COMPLETES THE TRANSFER BY ALSO ADDING THOSE DUTIES TO THE WEIGHTS AND MEASURES ACT.

SECTION 13 OF THIS LEGISLATION CLARIFIES THAT THE COMMISSIONER OF COMMERCE MAY AUTHORIZE DEPARTMENT EMPLOYEES TO ISSUE CITATIONS TO PERSONS WHO VIOLATE THE DOT/PF VEHICLE SIZE, WEIGHT, AND LOAD LIMITS, THE PROVISIONS OF AN OVERWEIGHT OR OVERSIZE VEHICLE PERMIT, OR DEPARTMENT REGULATIONS. THIS ELIMINATES AN AMBIGUITY AND LOOPHOLE LEFT AFTER THE 1982 TRANSFER OF ENFORCEMENT AUTHORITY TO THE DEPARTMENT.

SECTIONS 26 AND 27 OF CSSB 491 STATES THE PENALTY FOR ALL WEIGHTS AND MEASURES OFFENSES IS A CLASS B MISDEMEANOR PLUS

FIVE CENTS A POUND FOR OVERWEIGHT VEHICLE OFFENSES. THIS CHANGE CONFORMS TO THE NEW CRIMINAL CODE AND WILL PROVIDE A MORE EFFECTIVE DETERRENT TO WEIGHTS AND MEASURES VIOLATIONS. CURRENTLY, MANY PEOPLE ARE TOO WILLING TO RISK CITATION FOR VIOLATIONS BECAUSE OF THE LOW MAXIMUM PENALTIES.

ALL OF THESE CHANGES IN THE WEIGHTS AND MEASURES ACT WILL INCREASE THE EFFECTIVENESS AND EFFICIENCY OF IMPLEMENTATION OF THE ACT, ESPECIALLY THE OVERWEIGHT AND OVERSIZE VEHICLE PROGRAM. THEREFORE, I URGE YOUR PASSAGE OF CSSB 491.

Support By Dept. of Commerce
" " " " Heavy Trucks

ADDITIONAL INFORMATION

- 1) THE CHANGES MADE IN THE COMMITTEE SUBSTITUTE INCLUDE
 - A) PG 6, LINE 29 - DELETED "ARREST OR" SO THE DEPT REPRESENTATIVE CAN GIVE A CITATION FOR A VIOLATION, BUT CANNOT ARREST THE INDIVIDUAL
 - B) PG 12, LINE 1 - MADE THE PENALTY A CLASS B MISDEMEANOR INSTEAD OF THE ORIGINAL CLASS A MISDEMEANOR
 - C) PG 14, LINES 3-8 - ADDED SECTION 27 WHICH STATES THAT FIVE CENTS A POUND CAN BE ASSESSED FOR OVERWEIGHT VEHICLE OFFENSE IN ADDITION TO THE FINE ESTABLISHED AS A CLASS B MISDEMEANOR
- 2) CSSB 491 DECREASES THE FREQUENCY OF REQUIRED INSPECTIONS AND TESTS OF ALL WEIGHTS AND MEASURES FROM SEMI-ANNUAL TO ANNUAL. MORE FREQUENT INSPECTIONS AND TESTS CAN STILL BE MADE IN PROBLEM AREAS, HOWEVER.
- 3) SECTIONS 1 - 3 AND 5 - 26 CLARIFIES A CONFUSING APPROACH TAKEN BY THE 1961 LEGISLATION WHICH FIRST ENACTED THE WEIGHTS AND MEASURES ACT. FOR REASONS WHICH ARE NOT NOW CLEAR, THE COMMISSIONER OF COMMERCE

IS THE DIRECTOR OF WEIGHTS AND MEASURES AND THROUGHOUT THE CHAPTER MANY REFERENCES ARE MADE TO THE DIRECTOR. TO AVOID CONFUSION, CSSB 491 CHANGES ALL OF THOSE REFERENCES TO THE DIRECTOR TO BE REFERENCES TO THE COMMISSIONER.

Changes on pgs 6, 12, 14

Folta
3/7/84

Original sponsor: Rules/Governor

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 491 (L&C)

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 [DI-
16 RECTOR]. 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 to read:

29 (b) The regulations may include

1 (1) standards of net weight, measure, or count, and reason-
2 able standards of fill, for any commodity in package form;

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

7 (3) exemptions from the sealing or marking requirements of
8 AS 45.75.120 with respect to weights and measures of a character or
9 size that sealing or marking would be inappropriate, impracticable, or
10 damaging to the apparatus in question; [AND]

11 (4) with respect to classes of weights and measures of a
12 character that annual retesting is unnecessary to continued accuracy,
13 exemptions from the requirements of AS 45.75.070 and 45.75.080 for
14 annual testing, and schedules fixing the frequency of required retests
15 for classes of devices exempted; and

16 (5) provisions governing the enforcement of the size,
17 weight, and load limitations established under AS 19.10.060; the
18 issuance of, and the enforcement of the terms of, permits for over-
19 weight and oversize vehicles; and the operation of weigh stations.

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

21 (d) The specifications, tolerances, and regulations for commer-
22 cial weighing and measuring devices, together with amendments to them,
23 as recommended by the National Bureau of Standards and published in
24 National Bureau of Standards Handbook 44 and supplements to it, or in
25 any publication revising or superseding Handbook 44, are the specifi-
26 cations, tolerances, and regulations for commercial weighing and
27 measuring devices of the state except as specifically modified,
28 amended, or rejected by a regulation adopted [ISSUED] by the commis-
29 sioner [DIRECTOR].

1 * Sec. 6. AS 45.75.060 is amended to read:

2 Sec. 45.75.060. OFFICE AND FIELD [WORKING] STANDARDS AND EQUIP-
3 MENT. The commissioner [STATE] shall maintain [SUPPLY THE DIVISION OF
4 WEIGHTS AND MEASURES WITH] a duplicate set of state standards of
5 weight and measure, referred to in this chapter as office standards.
6 The commissioner [STATE] shall also supply field standards and the
7 equipment that [WHICH] is necessary to carry out this chapter. The
8 office standards and field standards shall be verified upon their
9 initial receipt and at least once each year afterward. The office
10 standards shall be verified by direct comparison with the state stan-
11 dards. The field standards shall be verified by comparison with the
12 office standards.

13 * Sec. 7. AS 45.75.070 is amended to read:

14 Sec. 45.75.070. TESTING AND INSPECTION OF LOCAL STANDARDS AND
15 WEIGHTS AND MEASURES AT STATE-SUPPORTED INSTITUTIONS. (a) At least
16 once every five years, the commissioner [DIRECTOR] shall test the
17 standards of weight and measure obtained by a city that [WHICH] has
18 appointed a sealer of weights and measures, and shall approve them if
19 they are correct. The commissioner [DIRECTOR] shall inspect the
20 standards at least once every two years.

21 (b) The commissioner [DIRECTOR] shall from time to time test all
22 weights and measures used in checking the receipt or disbursement of
23 supplies in every institution maintained by money appropriated by the
24 legislature, and shall report the commissioner's [HIS] findings, in
25 writing, to the supervisory board and to the executive officer of the
26 institution concerned.

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

28 (a) The commissioner [DIRECTOR] may inspect and test, to ascer-
29 tain if they are correct, all weights and measures kept, offered, or

1 exposed for sale. The commissioner [DIRECTOR] shall, at least annu-
2 ally [SEMIANNUALLY AND MORE OFTEN AS HE CONSIDERS NECESSARY], inspect
3 and test, to ascertain if they are correct, all weights and measures
4 commercially used

5 (1) in determining the weight, measurement, or count of
6 commodities or things sold, or offered or exposed for sale, on the
7 basis of weight or of measure;

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

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

12 * Sec. 9. AS 45.75.090 is amended to read:

13 Sec. 45.75.090. INVESTIGATIONS. The commissioner [DIRECTOR]
14 shall investigate complaints of violations of this chapter, and shall
15 [, UPON HIS OWN INITIATIVE,] conduct other [THE] investigations that
16 the commissioner [WHICH HE] considers appropriate and advisable to
17 develop information on prevailing procedures in commercial quantity
18 determination, [AND] on possible violations of this chapter and to
19 promote the general objective of accuracy in the determination and
20 representation of quantity in commercial transactions.

21 * Sec. 10. AS 45.75.100 is amended to read:

22 Sec. 45.75.100. INSPECTION OF PACKAGES. (a) The commissioner
23 [DIRECTOR] shall, from time to time, weigh or measure and inspect
24 packages or amounts of commodities kept, offered, or exposed for sale
25 to determine whether they contain the amounts represented and whether
26 they are kept, offered, or exposed for sale in accordance with law.
27 When packages or amounts of commodities do not contain the amounts
28 represented, or are kept, offered, or exposed for sale in violation of
29 law, the commissioner [DIRECTOR] may order them off sale and may mark

1 or tag them to show they are illegal. The commissioner [DIRECTOR] may
2 use recognized sampling procedures. Compliance of a given lot of
3 packages shall be determined on the basis of the result obtained on a
4 sample selected from and representative of the lot.

5 (b) A [NO] person may not

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

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

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

16 (a) The commissioner [DIRECTOR] may issue stop-use orders,
17 stop-removal orders, and removal orders for weights and measures used
18 or capable of being used commercially. The commissioner [DIRECTOR]
19 may issue stop-removal orders and removal orders for packages or
20 amounts of commodities kept, offered, or exposed for sale whenever the
21 commissioner [HE] considers it necessary or expedient in enforcing
22 this chapter.

23 * Sec. 12. AS 45.75.120 is amended to read:

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

25 (a) The commissioner [DIRECTOR] shall approve for use and seal or
26 mark with appropriate devices the weights and measures that the com-
27 missioner [WHICH HE] finds upon inspection and test to be correct as
28 provided in AS 45.75.050, and shall reject and mark or tag as "re-
29 jected" the weights and measures that are found [WHICH HE FINDS], upon

1 inspection or testing [TEST], to be incorrect as provided in AS 45.-
2 75.050 but that [WHICH] in the commissioner's [HIS] best judgment may
3 be satisfactorily repaired [ARE SUSCEPTIBLE OF SATISFACTORY REPAIR].
4 Sealing [THIS SEALING] or marking is not required for weights and
5 measures exempted by regulation [OF THE DIRECTOR].

6 (b) The commissioner [DIRECTOR] shall condemn, and may seize and
7 destroy weights and measures found to be incorrRY REPAIR]. Weights and
8 the commissioner's [HIS] best judgment, cannot of this section may be
9 repaired [ARE NOT SUSCEPTIBLE OF SATISFACTORY by [DIRECTOR] if not cor-
10 measures that [WHICH] are rejected under (a) of or disposed of contrary
11 confiscated and destroyed by the commissioner [I
12 rected as required by AS 45.75.180 or if used or
13 to the requirements of AS 45.75.180. IT OF ENTRY AND STOPPAGE.

14 * Sec. 13. AS 45.75.130 is amended to read: any other law dealing with

15 Sec. 45.75.130. POLICE POWERS AND RIGHT OF DIRECTOR] has special police

16 (a) In the enforcement of this chapter and any without formal warrant, any
17 weights and measures, the commissioner [DIRECTOR] use as evidence, without
18 powers. The commissioner [HE] may arrest, without, and measures or amounts
19 person violating the law, and seize for use offered, or exposed for
20 formal warrant, incorrect or unsealed weights amounting the commissioner's
21 or packages of commodity, used, retained, offered, without formal
22 sale, or sold in violation of law. In performing any person and require
23 [HIS] duties, the commissioner [DIRECTOR] may cease.

24 warrant, any structure or premises, and stop any Commerce and Economic
25 the person [HIM] to proceed to a specified place. power to enforce the size,

26 (b) An employee of the Department of Commerce and Economic
27 Development who is authorized by the commissioner to issue a citation to
28 weight, and load limitations adopted by the Department of Transporta-
29 tion and Public Facilities under AS 19.10.060 may issue a citation to

1 a person who violates (1) any of those limitations, (2) the terms of
2 an overweight or oversize vehicle permit issued under AS 44.33.020(25)
3 and AS 45.75.040, or (3) the provisions of regulations adopted under
4 AS 44.33.020(25) and AS 45.75.050(b)(5). Citations issued under this
5 subsection shall be treated as specified by AS 12.25.180 - 12.25.230
6 for citations issued by a peace officer.

7 * Sec. 14. AS 45.75.140 is amended to read:

8 Sec. 45.75.140. POWERS AND DUTIES OF INSPECTORS [DEPUTY DIRECTOR
9 AND INSPECTOR]. The powers and duties of the commissioner [DIRECTOR]
10 specified in AS 45.75.070, 45.75.080, 45.75.090, 45.75.100, 45.75.120,
11 45.75.130, and 45.75.170 may [, AND 45.75.380 SHALL] also be exercised
12 by [THE DEPUTY DIRECTOR AND] inspectors, when acting under the in-
13 structions and at the direction of the commissioner [DIRECTOR].

14 * Sec. 15. AS 45.75.150 is amended to read:

15 Sec. 45.75.150. APPOINTMENT OF CITY SEALERS AND DEPUTY SEALERS
16 OF WEIGHTS AND MEASURES. (a) A city may appoint a sealer of weights
17 and measures, and the deputy sealers of weights and measures it needs.
18 If the city appoints a sealer, the city [IT] shall obtain at its
19 expense the standards of weight and measure [WEIGHTS AND MEASURES] and
20 the additional equipment, for use in the enforcement of this chapter
21 in the city, that [WHICH] the commissioner [DIRECTOR] prescribes.

22 (b) When the standards of weight and measure provided by a city
23 are examined and approved by the commissioner [DIRECTOR], they are the
24 official standards for the city. At least every five years, the
25 sealer shall make or arrange to have made comparisons between the
26 sealer's [HIS] field standards and appropriate standards of a higher
27 order belonging to the sealer's [HIS] city or to the state in order
28 to maintain the field standards in accurate condition.

29 * Sec. 16. AS 45.75.160 is amended to read:

1 Sec. 45.75.160. CITY SEALERS AND DEPUTY SEALERS. The sealer of
2 a city, and the sealer's [HIS] deputy [SEALER] when acting under the
3 sealer's [HIS] instructions and [AT HIS] direction, have the same
4 powers and shall perform the same duties within the city as those
5 granted to [AND IMPOSED UPON] the commissioner [DIRECTOR] by
6 AS 45.75.080 - 45.75.130 and 45.75.380.

7 * Sec. 17. AS 45.75.170 is amended to read:

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

11 * Sec. 18. AS 45.75.180 is amended to read:

12 Sec. 45.75.180. DUTY OF OWNERS OF INCORRECT APPARATUS. Weights
13 and measures rejected by the commissioner [DIRECTOR] or a sealer
14 remain subject to the control of the rejecting authority until suit-
15 able repair or disposition of them is made as required by this sec-
16 tion. The owner of a rejected weight and measure shall correct it
17 within 30 days or a longer period authorized by the rejecting author-
18 ity, [;] or [,] may dispose of it in the manner authorized by the
19 rejecting authority. Rejected weights and measures may not again be
20 used commercially until officially reexamined [RE-EXAMINED] and found
21 to be correct or until specific written permission for their use is
22 issued by the rejecting authority.

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

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

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

29 (c) Under (a)(1) of this section the commissioner [DIRECTOR]

1 shall, by regulation, establish

2 (1) reasonable variations or tolerances to be allowed, that
3 [WHICH] may include variations below the declared weight or measure
4 caused by ordinary and customary exposure, only after the commodity is
5 introduced into intrastate commerce, to conditions that normally occur
6 in good distribution practice and that unavoidably result in decreased
7 weight or measure,

8 (2) exemptions [EXEMPTION] as to small packages, and

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

13 * Sec. 21. AS 45.75.220 is amended to read:

14 Sec. 45.75.220. MISLEADING PACKAGES. A [NO] commodity in pack-
15 age form may not be so wrapped, or put in a container so made, formed,
16 or filled as to mislead the purchaser as to the quantity of the con-
17 tents of the package, and the contents of a container may not fall
18 below the reasonable standard of fill that [WHICH] the commissioner
19 [DIRECTOR] prescribes for the commodity.

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

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

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

29 (b) One of the tickets provided for under (a) of this section

1 shall be retained by the vendor and the other shall be delivered to
2 the purchaser at the time of delivery of the fuel, or shall be sur-
3 rendered, on demand, to the commissioner [DIRECTOR, OR THE DEPUTY
4 DIRECTOR] or an inspector, or a sealer or deputy sealer, who may [, IF
5 HE DESIRES TO] retain it as evidence and [, SHALL] issue a weight slip
6 in place of it for delivery to the purchaser. If the purchaser car-
7 ries away the [HIS] purchase, the vendor is required only to give to
8 the purchaser at the time of sale a delivery ticket stating the number
9 of pounds of fuel delivered to the purchaser [HIM].

10 * Sec. 24. AS 45.75.300 is amended to read:

11 Sec. 45.75.300. TEXTILE PRODUCTS. (a) It is unlawful to keep
12 for the purpose of sale, offer or expose for sale, or sell textile
13 yard goods put up or packaged in advance of sale in a bolt or roll, or
14 any other textile product put up or packaged in advance of sale in any
15 other unit, for wholesale or retail sale, unless the bolt or roll, or
16 other unit is definitely, plainly, and conspicuously marked to show
17 its net measure in terms of yards or its net weight, in terms of
18 avoirdupois pounds or ounces, subject to the following limitations and
19 requirements:

20 (1) a unit of twine or cordage may be marked to show its
21 net measure in terms of feet; readywound bobbins not sold separately
22 are not required to be individually marked, but the package containing
23 the bobbins shall be marked to show the number of bobbins contained in
24 it and the net weight or measure of the thread on each bobbin; a unit
25 of sewing, basting, mending, darning, crocheting, tatting, hand-
26 knitting, or embroidery thread or yarn, except nylon hand-knitting
27 yarn, that is not composed in whole or in part of wool, the net weight
28 of which is less than two ounces avoirdupois, shall be marked to show
29 its net measure in terms of yards as unwound from the ball or from the

1 spool or other holder; a retail unit of a textile product sold only
2 for household use consisting of a package containing two or more
3 similar individual units that are not sold separately shall be marked
4 to show the number of individual units in the package and the net
5 weight or net measure of the product in each individual unit, but this
6 does not apply where the individual units are separately marked; a
7 unit of yarn, composed in whole or in part of wool, sold to consumers
8 for handiwork, shall be marked to show the net weight of the yarn,
9 except that any such unit of tapestry, mending, or embroidery yarn,
10 the net measure of which does not exceed 50 yards, may be marked to
11 show its linear measure only;

12 (2) the marking required by this section shall in all cases
13 be in combination with the name and place of business of the manufac-
14 turer, packer, or distributor of the product, or a trademark, symbol,
15 brand, or other mark that identifies the manufacturer, packer, or
16 distributor;

17 (3) reasonable tolerances shall be permitted, and these
18 shall be included in regulations adopted for the enforcement of this
19 section.

20 (b) This [THAT ARE ISSUED BY THE DIRECTOR; (4) THIS] section
21 does not apply to the following textile products when sold at whole-
22 sale in bulk by net weight: cordage, agricultural bag sewing threads,
23 twines, yarns that are to be processed, and yarns that are to be
24 industrially converted into end-use products.

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

26 Sec. 45.75.330. INJUNCTION. The commissioner [DIRECTOR] may
27 apply to a court for a temporary or permanent injunction restraining a
28 person from violating a provision of this chapter.

29 * Sec. 26. AS 45.75.380 is amended to read:

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

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

16 (2) uses or has in possession for current use, in buying or
17 selling a commodity or thing, or for hire or award, or in the computa-
18 tion of a basic charge or payment for services rendered on the basis
19 of weight or measurement, or in the determination of weight or mea-
20 surement when a charge is made for determination, a weight or measure
21 that has not been tested and sealed by the appropriate authority
22 within one year, (A) unless written notice is given to the appropriate
23 authority to the effect that the weight or measure is available for
24 examination, or is due for reexamination [RE-EXAMINATION], as the case
25 may be, (B) unless specific written permission to use the weight or
26 measure is received from the appropriate authority, or (C) unless the
27 weight or measure is exempt from sealing or annual testing require-
28 ments by AS 45.75.080 or by a regulation adopted [OF THE DIRECTOR
29 ISSUED] under AS 45.75.050;

1 (3) disposes of a rejected [OR CONDEMNED] weight or measure
2 in a manner contrary to law or regulation;

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

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

8 (6) takes more than the quantity the person [HE] represents
9 of a commodity, thing, or service when, as buyer, the person [HE]
10 furnished the weight or measure by means of which the amount of the
11 commodity, thing, or service is determined;

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

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

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

24 (10) violates a provision of an overweight or oversize
25 permit;

26 (11) violates a weight, load, or size limitation established
27 under AS 19.10.060 or regulations adopted under AS 19.05.020 or
28 AS 45.75.050(b)(5);

29 (12) violates a provision of this chapter or of a regulation

1 adopted under this chapter for which a specific penalty is not pre-
2 scribed.

3 * Sec. 27. AS 45.75.380 is amended by adding a new subsection to read:

4 (b) In addition to the penalty provided for in (a) of this
5 section, "a fine of five cents a pound shall be imposed for each pound
6 of weight by which a vehicle exceeds an allowable gross weight limita-
7 tion established under AS 19.10.060 or regulations adopted by the
8 Department of Transportation and Public Facilities under AS 19.05.020.

9 * Sec. 28. AS 45.75.390(4) is repealed and reenacted to read:

10 (4) "commissioner" means the commissioner of commerce and
11 economic development or a designee;

12 * Sec. 29. AS 28.35.230(e) and AS 45.75.360 are repealed.

13 * Sec. 30. This Act takes effect immediately in accordance with AS 01.-
14 10.070(c).

DEPARTMENT OF LAW CS FOR SEC. 14 OF SB 82

Sec. 14. AS 45.75 is amended by adding new sections to Article 2 to read:

Sec. 45.75.131. ISSUANCE OF CITATIONS.

(b) An employee of the Department of Commerce and Economic Development who is authorized by the commissioner to enforce the size, weight, and load limitations adopted by the Department of Transportation and Public Facilities under AS 19.10.060 may issue a citation to a person who violates (1) any of those limitations, (2) the terms of an overweight or oversize vehicle permit issued under AS 44.-33.020(25) and AS 45.75.040, or (3) the provisions of a regulation adopted under AS 44.33.020(25) and AS-45.75.-050(b)(5).

Sec. 45.75.132. FORM AND ISSUANCE OF CITATION. (a)

A citation issued under this section must be in writing. A person receiving the citation may not be required to sign a promise to appear in court [ENDORSE IT].

(b) The time specified in the notice to appear on a citation issued under this section must be at least fifteen days [AT LEAST FIVE DAYS, NOT INCLUDING WEEKENDS AND HOLIDAYS,] after the issuance of the citation, unless the person cited requests an earlier hearing.

(c) The commissioner is responsible for the issuance of books containing appropriate citations and shall maintain a record of each book and each citation contained in

it. The commissioner shall require and retain a receipt for every book issued to an employee of the department designated by the commissioner to provide investigative service to enforce provisions of this chapter.

(d) An employee who issues a citation under this section shall deposit the original or a copy of the citation with a court having jurisdiction over the alleged offense. Upon its deposit with the court, the citation may be disposed of only by trial in the court or other official action taken by the magistrate, judge, or prosecutor. The employee who issued the citation may not dispose of it or copies of it or of the record of its issuance except as required under this subsection and (e) of this section.

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

(f) If the form of citation issued under this section includes information and is sworn to as required under the laws of this state in respect to a complaint charging commission of the offense alleged in the

citation, then the citation when filed with a court having jurisdiction, is considered to be a lawful complaint for the purpose of prosecution.

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

Sec. 45.75.133. BAIL FORFEITURE. (a) [(B)] The supreme court shall specify by rule or order those violations that are appropriate for disposition without court appearance, and shall establish a schedule of bail amounts. The maximum bail forfeiture amount for an offense may not exceed the maximum fine specified by law for that offense. If the violation for which the citation is issued may be disposed of without court appearance, the issuing employee shall write on the citation the amount of bail forfeiture applicable to the violation.

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

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

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

(c) [(D)] When bail has been forfeited under (b) [(C)] of this section, a judgment of conviction shall be entered. Forfeiture of bail is a complete satisfaction for the violation. The clerk of the court accepting the bail forfeiture shall provide the offender with a receipt stating that fact.

(d) [(E)] A [IF THE] person cited who fails to pay the bail forfeiture amount established under (b) of this section or to appear in court as required, is guilty of a class B misdemeanor [THE CITATION IS CONSIDERED A SUMMONS FOR A MISDEMEANOR].

(e) [(F)] Notwithstanding other provisions of law, if a person cited for a violation for which a bail forfeiture amount has been established under (b) of this section appears in court and is found guilty, the penalty that is imposed for the offense may not exceed the bail forfeiture amount for that offense established under (b) of this section.

Adoption of Necessary Regulation

Sec. 19.10.060. Regulation of weight and load of vehicles and use of highways during certain seasons. The department, with respect to highways under its jurisdiction, may

(1) establish limitations on weight, size, and load of vehicles;

(2) *[Repealed, § 25 ch 144 SLA 1977.]*

(3) prohibit the operation or impose restrictions on vehicular use of highways during certain seasons of the year. (§ 5 art III title II ch 152 SLA 1957; am § 1 ch 55 SLA 1963; am § 25 ch 144 SLA 1977; am § 2 ch 77 SLA 1982)

Cross references. For the duties of the Department of Commerce and Economic Development to operate weighing stations and enforce weight and load limitations based upon directions of the Department of

Transportation and Public Facilities, see AS 44.33.020(25).

Effect of amendments. — The 1982 amendment inserted "size" in paragraph (1).

Sec. 19.05.020. Regulations. The department shall adopt regulations necessary to carry out the purpose of chs. 5 — 25 of this title. (§ 1 art III title I ch 152 SLA 1957)

Opinions of attorney general. — The department has authority to require contractors to set up a system of prequalification of contractors as a prerequisite for bidding on state construction projects, and under such system to require contractors to furnish periodic and financial statements. —

1959 Op. Att'y Gen., No. 27.

The department would not be required to follow the Administrative Procedure Act (AS 44.62.010 — 44.62.650) in adopting regulations to implement a pro-

gram of prequalification of contractors. 1959 Op. Att'y Gen., No. 27.

A policy of publishing regulations concerning bidding and letting of contracts in the Administrative Code is consistent with the Alaska Administrative Procedure Act (AS 44.62.010 — 44.62.650), since these regulations are regulations in which an important portion of the public has a vital interest and since they are of great use to the portion of the public interested in dealing and contracting with the state. 1959 Op. Att'y Gen., No. 27.

PENALTIES FOR A VIOLATION

CRIMINAL PROCEDURE

§ 12.55.035

... subsection (g) the court may not impose a concurrent sentence. However, if the defendant's conduct falls within paragraphs (1), (2) or (3) of subsection (g) the court is authorized to impose concurrent sentences. (Griffith v. State, Ct. App. Op. No. 331 (File No. A-47), 675 P.2d 662 (1984).

Where defendant's various check forgery offenses violated similar societal interests, he could therefore receive concurrent sentences. Winfree v. State, Ct. App. Op. No. 378 (File No. A-156), P.2d (1984).

Sec. 12.55.030. Discharge of indigents imprisoned for nonpayment of fine. [Repealed, § 16 ch 53 SLA 1973.]

Sec. 12.55.035. Fines. (a) Upon conviction of an offense, a defendant may be sentenced to pay a fine as authorized in this section or as otherwise authorized by law. In determining the amount and method of payment of a fine, the court shall take into account the financial resources of the defendant and the nature of the burden its payment will impose. No defendant may be imprisoned solely because of inability to pay a fine.

(b) Upon conviction of an offense, a defendant who is not an organization may be sentenced to pay, unless otherwise specified in the provision of law defining the offense, a fine of no more than

(1) \$75,000 for murder in the first or second degree, sexual assault in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree;

(2) \$50,000 for a class A, B, or C felony;

(3) \$5,000 for a class A misdemeanor;

(4) \$1,000 for a class B misdemeanor;

(5) \$300 for a violation.

(c) Upon conviction of an offense, a defendant that is an organization may be sentenced to pay a fine not exceeding the greater of

(1) \$100,000; or

(2) an amount which is three times the pecuniary gain realized by the defendant as a result of the offense.

(d) If a defendant is sentenced to pay a fine, the court may grant permission for the payment to be made within a specified period of time or in specified installments. (§ 12 ch 166 SLA 1978; am § 17 ch 45 SLA 1982; am § 26 ch 143 SLA 1982)

Cross references. — For classification of offenses, see AS 11.81.250; for sentences of imprisonment for felonies, see AS 12.55.125; for sentences of imprisonment for misdemeanors, see AS 12.55.135; for sentences for violations, see AS 12.55.140.

Effect of amendments. — The first 1982 amendment, in subsection (b)(1), deleted "or" preceding "kidnapping" and

added "or misconduct involving a controlled substance in the first degree."

The second 1982 amendment inserted "sexual assault in the first degree" in paragraph (1) of subsection (b).

While neither 1982 amendment gave effect to the other, both have been given effect in paragraph (b)(1), set out above.

DUTIES OF THE DEPARTMENT

§ 44.33.010

ALASKA STATUTES

§ 44.33.020

Sec. 44.33.010. Commissioner of commerce and economic development. The principal executive officer of the Department of Commerce and Economic Development is the commissioner of commerce and economic development. (§ 14 ch 64 SLA 1959; am § 6 ch 186 SLA 1960; am § 95 ch 218 SLA 1976)

Collateral references. — 15A Am. Jur. 2d, Commerce, § 1 et seq.; 1 and 2 Am. Jur. 2d, Administrative Law, § 1 et seq.; 63 Am. Jur. 2d, Public Funds, § 1 et seq.; 63 Am. Jur. 2d, Public Officers and Employees, § 22. 15 C.J.S., Commerce, § 1 et seq.; 73 C.J.S. Public Administrative Law, § 1 et seq.

Sec. 44.33.020. Duties of department. The Department of Commerce and Economic Development shall

(1) administer the state programs relating to commerce, enforce the laws relating to these programs, and adopt regulations under these laws;

(2) register corporations;

(3) collect corporation franchise taxes;

(4) enforce state laws regulating public utilities and other public service enterprises, banking and securities, insurance, and other businesses and enterprises touched with a public interest;

(5) make veterans' loans;

(6) inspect weights and measures;

(7) promote and develop civil aviation;

(8) furnish the budgeting, clerical and administrative services for regulatory agencies and professional and occupational licensing boards not otherwise provided for;

(9) *[Repealed, E.O. No. 39 § 13 (1977).]*

(10) *[Repealed, E.O. No. 33 (1968).]*

(11) before the commencement of each calendar quarter, furnish lending institutions, title insurance companies, mortgage companies and clerks of the respective superior courts with the 12th Federal Reserve District discount rate that is to be used during that calendar quarter for computing the maximum rate of interest under AS 45.45.010(b);

(12) conduct studies, enter into contracts and agreements, and make surveys relating to the economic development of the state and, when appropriate, assemble, analyze, and disseminate the findings obtained;

(13) provide factual information and technical assistance for potential industrial and commercial investors;

(14) receive gifts, grants, and other aid that facilitate the powers and duties of the department from agencies and instrumentalities of the United States or other public or private sources;

(15) establish and activate programs to achieve balanced economic development in the state and advise the governor on economic development policy matters;

(16) formulate a continuing program for basic economic development and for the necessary promotion, planning and research that will advance the economic development of the state;

(17) cooperate with private, governmental and other public institutions and agencies in the execution of economic development programs;

(18) review the programs and annual reports of other departments and agencies as they are related to economic development and prepare an annual report on the economic growth of the state;

(19) administer the economic development programs of the state;

(20) perform all other duties and powers necessary or proper in relation to economic development and planning for the state;

(21) request tourism-related businesses in the state to provide data regarding occupancy levels, traffic flow and gross receipts and to participate in visitor surveys conducted by the department; data collected under this paragraph which discloses the particulars of an individual business is not a matter of public record and shall be kept confidential; however, this restriction does not prevent the department from using the data to formulate tourism economic impact information including expenditure patterns, tax receipts and fees, employment and income attributable to tourism, and other information considered relevant to the planning, evaluation and policy direction of tourism in the state.

(22) [Repealed, E.O. No. 47, § 6 (1980).]

(23) administer the program of state assistance for the construction and development of cultural facilities in accordance with AS 44.33.401 — 44.33.417;

(24) provide administrative and budgetary services to the Real Estate Commission (AS 08.88) as requested by the commission;

(25) operate motor vehicle weighing stations, issue special written permits authorizing the operation of overweight and oversize vehicles, establish fees for the overweight and oversize vehicle special permits, enforce the size, weight, and load limitations adopted by the Department of Transportation and Public Facilities under AS 19.10.060, and establish regulations relating to pilot car services and the enforcement of the size, weight, and load limitations adopted under AS 19.10.060;

(26) administer the Alaska Foreign Offices established by AS 44.33.530. (§ 14 ch 64 SLA 1959; am § 6 ch 186 SLA 1960; am § 2 ch 1 SLA 1961; am § 2 ch 55 SLA 1963; am § 2 ch 70 SLA 1965; am E.O. No. 33 (1968); am § 4 ch 94 SLA 1969; am § 6 ch 207 SLA 1975; am § 1 ch 116 SLA 1976; am § 96 ch 218 SLA 1976; am E.O. No. 39, § 13 (1977); am E.O. No. 40, § 2 (1979); am § 4 ch 62 SLA 1979; am E.O. No. 47, § 6 (1980); am § 33 ch 167 SLA 1980; am § 1 ch 77 SLA 1982; am E.O. No. 57, § 2 (1984); am § 1 ch 120 SLA 1984)

Cross references. — As to establishing limitations on weight and load of vehicles, see AS 19.10.060(1).

Effect of amendments. — Section 6, E.O. No. 47 (1980) repealed paragraph (22).

§ 44.33.025

ALASKA STATUTES

§ 44.33.120

Section 33, ch. 167, SLA 1980, added paragraph (24).

The 1982 amendment added paragraph (25).

The first 1984 amendment added paragraph (26).

The second 1984 amendment substituted "Offices" for "Office" in paragraph (26).

Editor's notes. — The duties, powers, and responsibilities in respect to the accumulation, analysis, and reporting of commercial and industrial statistics, the

promotion of the economic and tourist development of the state, the granting of industrial tax incentives, the tourist attraction development program, and the tourism advisory board were transferred from the Department of Commerce to the Department of Economic Development and Planning by ch. 159 SLA 1962 (AS 44.45), that was repealed by § 1 ch. 207 SLA 1975.

Legislative history reports. — For report on ch. 116, SLA 1976 (SCSHB 730), see 1976 House Journal, p. 696.

Sec. 44.33.025. Recording. [Repealed, E.O. No. 47, § 6 (1980).]

Sec. 44.33.110. Civil Air Patrol. [Repealed, E.O. No. 33 (1968). For current provisions, see AS 26.05.345.]

IDENTIFICATION	BILL NAME "An Act relating to weights and measures"	BILL NUMBER SB 82
		DATE INTRODUCED 1/27/85
		RELATED BILLS PENDING
	SPONSOR(S) Rules - Gov	REFERRALS Trans, Labor & Commerce, Finance
INITIAL RESEARCH	INITIAL SUMMARY COMPLETED Yes, by Trans Staff	LEGAL DIVISION SUMMARY No
	SPONSOR CONTACTED FOR BACKUP MATERIALS Joe Swanson - DOC-ED Carla	DEPT OF LAW SUMMARY No
	AGENCY RESPONSE Transmittal letter from Gov, sufficient	FISCAL NOTE Yes, enclosed in Referral
		OTHER INTERESTED LEGISLATORS NOTIFIED
BACKGROUND RESEARCH	SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES SB 491 13th Legislature	OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, ETC
	RESPONSES FROM INTERESTED PERSONS AND/OR GROUPS Carla Forsythe - General Council to Ak court system. Ray Gillespie - office of the Governor Peter Froehlich - Assistant attorney general Katherine Wallin - OCEO Liaison	
HEARING PREPARATION	CHAIRMAN BRIEFED Yes - 2-8-85	DATE & PLACE SET Yes - Friday 8, February - Buttrick - 3:30
	STAFF MEMO TO COMMITTEE Yes	TELECONFERENCE No
	BACKGROUND MATERIAL DISTRIBUTED Yes 2-7-85	PSA/PRESS RELEASE No
	LIST OF WITNESSES Joe Swanson	SUGGESTED AMENDMENTS/CS DRAFTED

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 *Same* { 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 *Same* { 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 *Same* { (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 ^{that is} [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 ^{That} [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) ⁹ [No] person may not

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 ^{that} [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 ^{that} [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 ^{that} [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 ^{these} [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 ^[him] 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: ^A

27 Sec. 45.75.220. MISLEADING PACKAGES. ^[No] commodity in package
28 form may be ^{not} 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 ^{that} ~~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 PUNISHABLE 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 medica' 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).

and of the other standards and equipment provided for by this chapter. The director shall keep accurate records of the standards and equipment. The director shall enforce this chapter. He shall supervise the weights and measures offered for sale, sold, or in use in the state. (§ 8 ch 101 SLA 1961)

Sec. 45.75.050. Adoption of regulations. (a) The director shall issue regulations for the enforcement of this chapter in accordance with the Administrative Procedure Act (AS 44.62). These have the effect of law.

(b) The regulations may include

(1) standards of net weight, measure, or count, and reasonable standards of fill, for any commodity in package form;

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

(3) exemptions from the sealing or marking requirements of AS 45.75.120 with respect to weights and measures of a character or size that sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question; and

(4) with respect to classes of weights and measures of a character that annual retesting is unnecessary to continued accuracy, exemptions from the requirements of AS 45.75.070 and 45.75.080 for annual testing, and schedules fixing the frequency of required retests for classes of devices exempted.

(c) The regulations shall include specifications, tolerance, and regulations for weights and measures of the character of those specified in AS 45.75.030, designed to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official standards, those (1) that are not accurate, (2) that are of such construction that they are not reasonably permanent in their adjustment or will not repeat their indications correctly, or (3) that facilitate the perpetration of fraud.

(d) The specifications, tolerances, and regulations for commercial weighing and measuring devices, together with amendments to them, as recommended by the National Bureau of Standards and published in National Bureau of Standards Handbook 44 and supplements to it, or in any publication revising or superseding Handbook 44, are the specifications, tolerances, and regulations for commercial weighing and measuring devices of the state, except as specifically modified, amended, or rejected by a regulation issued by the director.

(e) For the purposes of this chapter, apparatus is correct when it conforms to the requirements adopted in accordance with this section; other apparatus is considered incorrect. (§ 9 ch 101 SLA 1961)

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2 CS FOR SENATE BILL NO. 82 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH 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 45.75.030 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 [DI-
16 RECTOR]. 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 enforce this chapter, implement AS 44.33.020(25), and
21 [. HE SHALL] supervise the weights and measures offered for sale,
22 sold, or in use in the state.

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

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

28 * Sec. 4. AS 45.75.050(b) is amended to read:

29 (b) The regulations may include

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

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

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

11 (4) for [WITH RESPECT TO] classes of weights and measures
12 of a character that annual retesting is unnecessary to continued
13 accuracy, exemptions from the requirements of AS 45.75.070 and 45.75.-
14 080 for annual testing, and schedules fixing the frequency of required
15 retests for classes of devices exempted;

16 (5) in the implementation of AS 44.33.020(25), provisions
17 governing the enforcement of the size, weight, and load limitations
18 established under AS 19.10.060; the issuance of, and the enforcement
19 of the terms of, permits for overweight and oversize vehicles; and the
20 operation of weigh stations.

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

22 (d) The specifications, tolerances, and regulations for commer-
23 cial weighing and measuring devices, together with amendments to them,
24 as recommended by the National Bureau of Standards and published in
25 National Bureau of Standards Handbook 44 and supplements to it, or in
26 any publication revising or superseding Handbook 44, are the specifi-
27 cations, tolerances, and regulations for commercial weighing and
28 measuring devices of the state, except as specifically modified,
29 amended, or rejected by a regulation adopted [ISSUED] by the

1 commissioner [DIRECTOR].

2 * Sec. 6. AS 45.75.060 is amended to read:

3 Sec. 45.75.060. OFFICE AND FIELD [WORKING] STANDARDS AND EQUIP-
4 MENT. The commissioner [STATE] shall maintain [SUPPLY THE DIVISION OF
5 WEIGHTS AND MEASURES WITH] a duplicate set of state standards of
6 weight and measure, referred to in this chapter as office standards.
7 The commissioner [STATE] shall also supply field standards and the
8 equipment that [WHICH] is necessary to carry out this chapter. The
9 commissioner shall verify the office standards and field standards on
10 [SHALL BE VERIFIED UPON] their initial receipt and at least once each
11 year afterward. The commissioner shall verify the office standards
12 [SHALL BE VERIFIED] by direct comparison with the state standards.
13 The commissioner shall verify the [THE] field standards [SHALL BE
14 VERIFIED] by comparison with the office standards.

15 * Sec. 7. AS 45.75.070 is amended to read:

16 Sec. 45.75.070. TESTING AND INSPECTION OF LOCAL STANDARDS AND
17 WEIGHTS AND MEASURES AT STATE-SUPPORTED INSTITUTIONS. (a) At least
18 once every five years, the commissioner [DIRECTOR] shall test the
19 standards of weight and measure obtained by a city that [WHICH] has
20 appointed a sealer of weights and measures, and shall approve them if
21 they are correct. The commissioner [DIRECTOR] shall inspect the
22 standards at least once every two years.

23 (b) The commissioner [DIRECTOR] shall from time to time test all
24 weights and measures used in checking the receipt or disbursement of
25 supplies in every institution maintained by money appropriated by the
26 legislature, and shall report the commissioner's [HIS] findings, in
27 writing, to the supervisory board and to the executive officer of the
28 institution concerned.

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

1 (a) The commissioner [DIRECTOR] may inspect and test, to ascer-
2 tain if they are correct, all weights and measures kept, offered, or
3 exposed for sale. The commissioner [DIRECTOR] shall, at least annu-
4 ally [SEMIANNUALLY AND MORE OFTEN AS HE CONSIDERS NECESSARY], inspect
5 and test, to ascertain if they are correct, all weights and measures
6 commercially used

7 (1) in determining the weight, measurement, or count of
8 commodities or things sold, or offered or exposed for sale, on the
9 basis of weight or of measure;

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

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

14 * Sec. 9. AS 45.75.090 is amended to read:

15 Sec. 45.75.090. INVESTIGATIONS. The commissioner [DIRECTOR]
16 shall investigate complaints of violations of this chapter, and shall
17 [, UPON HIS OWN INITIATIVE,] conduct other [THE] investigations that
18 the commissioner [WHICH HE] considers appropriate and advisable to
19 develop information on prevailing procedures in commercial quantity
20 determination, [AND] on possible violations of this chapter, and to
21 promote the general objective of accuracy in the determination and
22 representation of quantity in commercial transactions.

23 * Sec. 10. AS 45.75.100 is amended to read:

24 Sec. 45.75.100. INSPECTION OF PACKAGES. (a) The commissioner
25 [DIRECTOR] shall, from time to time, weigh or measure and inspect
26 packages or amounts of commodities kept, offered, or exposed for sale
27 to determine whether they contain the amounts represented and whether
28 they are kept, offered, or exposed for sale in accordance with law.
29 When packages or amounts of commodities do not contain the amounts

1 represented, or are kept, offered, or exposed for sale in violation of
2 law, the commissioner [DIRECTOR] may order them off sale and may mark
3 or tag them to show they are illegal. The commissioner [DIRECTOR] may
4 use recognized sampling procedures. The commissioner shall determine
5 the compliance [COMPLIANCE] of a given lot of packages [SHALL BE
6 DETERMINED] on the basis of the result obtained on a sample selected
7 from and representative of the lot.

8 (b) A [NO] person may not

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

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

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

19 (a) The commissioner [DIRECTOR] may issue stop-use orders,
20 stop-removal orders, and removal orders for weights and measures used
21 or capable of being used commercially. The commissioner [DIRECTOR]
22 may issue stop-removal orders and removal orders for packages or
23 amounts of commodities kept, offered, or exposed for sale whenever the
24 commissioner [HE] considers it necessary or expedient in enforcing
25 this chapter.

26 * Sec. 12. AS 45.75.120 is amended to read:

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

28 (a) The commissioner [DIRECTOR] shall approve for use and seal or
29 mark with appropriate devices the weights and measures that the

1 commissioner [WHICH HE] finds on [UPON] inspection and test to be
2 correct as provided in AS 45.75.050, and shall reject and mark or tag
3 as "rejected" the weights and measures that are found [WHICH HE
4 FINDS], upon inspections or testing [TEST], to be incorrect as pro-
5 vided in AS 45.75.050 but which in the commissioner's [HIS] best
6 judgment may be satisfactorily repaired [ARE SUSCEPTIBLE OF SATISFAC-
7 TORY REPAIR]. This sealing or marking is not required for weights and
8 measures exempted by regulation [OF THE DIRECTOR].

9 (b) The commissioner [DIRECTOR] shall condemn, and may seize and
10 destroy weights and measures found to be incorrect that [WHICH], in
11 the commissioner's [HIS] best judgment, cannot be satisfactorily
12 repaired [ARE NOT SUSCEPTIBLE OF SATISFACTORY REPAIR]. Weights and
13 measures that [WHICH] are rejected under (a) of this section may be
14 confiscated and destroyed by the commissioner [DIRECTOR] if not cor-
15 rected as required by AS 45.75.180 or if used or disposed of contrary
16 to the requirements of AS 45.75.180.

17 * Sec. 13. AS 45.75.130 is amended to read:

18 Sec. 45.75.130. POLICE POWERS AND RIGHT OF ENTRY AND STOPPAGE.
19 In the enforcement of this chapter and [ANY] other laws [LAW] dealing
20 with weights and measures, the commissioner [DIRECTOR] has special
21 police powers. The commissioner [HE] may arrest, without formal
22 warrant, a [ANY] person violating the law, and seize for use as evi-
23 dence, without formal warrant, incorrect or unsealed weights and
24 measures or amounts or packages of commodity, used, retained, offered,
25 or exposed for sale, or sold in violation of law. In performing these
26 [HIS] duties, the commissioner [DIRECTOR] may enter, without formal
27 warrant, a [ANY] structure or premises, and stop any person and re-
28 quire the person [HIM] to proceed to a specified place.

29 * Sec. 14. AS 45.75 is amended by adding new sections to article 2 to

1 read:

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

7 (1) a load limitation;

8 (2) the terms of an overweight or oversize vehicle permit
9 issued under AS 44.33.020(25) and AS 45.75.040; or

10 (3) the provisions of a regulation adopted under AS 44.33.-
11 020(25) and AS 45.75.050(b)(5).

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

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

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

24 (d) An employee who issues a citation under this section shall
25 deposit the original or a copy of the citation with a court having
26 jurisdiction over the alleged offense. Upon its deposit with the
27 court, the citation may be disposed of only by trial in the court or
28 other official action taken by the magistrate, judge, or prosecutor.
29 The employee who issued the citation may not dispose of it or copies

1 of it or of the record of its issuance except as required under this
2 subsection and (e) of this section.

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

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

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

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

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

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

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

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

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

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

23 * Sec. 15. AS 45.75.140 is amended to read:

24 Sec. 45.75.140. POWERS AND DUTIES OF INSPECTORS [DEPUTY DIRECTOR
25 AND INSPECTOR]. The powers and duties of the commissioner [DIRECTOR]
26 specified in AS 45.75.070 - 45.75.100, 45.75.120, [AS 45.75.070,]
27 45.75.130, and 45.75.170 may [, AND 45.75.380 SHALL] also be exercised
28 by [THE DEPUTY DIRECTOR AND] inspectors, when acting under the in-
29 structions and at the direction of the commissioner [DIRECTOR].

1 * Sec. 16. AS 45.75.150 is amended to read:

2 Sec. 45.75.150. APPOINTMENT OF CITY SEALERS AND DEPUTY SEALERS
3 OF WEIGHTS AND MEASURES. (a) A city may appoint a sealer of weights
4 and measures, and the deputy sealers of weights and measures it needs.
5 If the city appoints a sealer, the city [IT] shall obtain at its
6 expense the standards of weight and measure [WEIGHTS AND MEASURES] and
7 the additional equipment, for use in the enforcement of this chapter
8 in the city, which the commissioner [DIRECTOR] prescribes.

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

16 * Sec. 17. AS 45.75.160 is amended to read:

17 Sec. 45.75.160. CITY SEALERS AND DEPUTY SEALERS. The sealer of
18 a city, and the sealer's [HIS] deputy [SEALER] when acting under the
19 sealer's [HIS] instructions and [AT HIS] direction, have the same
20 powers and shall perform the same duties within the city, as those
21 granted to and imposed upon the commissioner [DIRECTOR] by AS 45.75.-
22 080 - 45.75.130 and 45.75.380.

23 * Sec. 18. AS 45.75.170 is amended to read:

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

27 * Sec. 19. AS 45.75.180 is amended to read:

28 Sec. 45.75.180. DUTY OF OWNERS OF INCORRECT APPARATUS. Weights
29 and measures rejected by the commissioner [DIRECTOR] or a sealer

1 remain subject to the control of the rejecting authority until suit-
2 able repair or disposition of them is made as required by this sec-
3 tion. The owner of a rejected weight and measure shall correct it
4 within 30 days or a longer period authorized by the rejecting author-
5 ity, [;] or [,] may dispose of it in the manner authorized by the
6 rejecting authority. The owner of rejected [REJECTED] weights and
7 measures may not use them again [BE USED] commercially until the
8 rejected weights and measures are officially reexamined [RE-EXAMINED]
9 and found to be correct or until specific written permission for their
10 use is issued by the rejecting authority.

11 * Sec. 20. AS 45.75.190(c) is amended to read:

12 (c) The commissioner [DIRECTOR] may adopt [ISSUE] reasonable
13 regulations necessary to assure that a seller determines the amounts
14 of commodity sold [ARE DETERMINED] in accordance with good commercial
15 practice and in an accurate and informative manner [AND ARE SO DETER-
16 MINED AND REPRESENTED AS TO BE ACCURATE AND INFORMATIVE].

17 * Sec. 21. AS 45.75.200(c) is amended to read:

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

20 (1) reasonable variations or tolerances to be allowed, that
21 [WHICH] may include variations below the declared weight or measure
22 caused by ordinary and customary exposure, only after the commodity is
23 introduced into intrastate commerce, to conditions that normally occur
24 in good distribution practice and that unavoidably result in decreased
25 weight or measure,

26 (2) exemptions for [EXEMPTION AS TO] small packages, and

27 (3) exemptions for [AS TO] commodities put up in variable
28 weights or sizes for sale to the consumer intact and either customar-
29 ily not sold as individual units or customarily weighed or measured at

1 the time of sale to the consumer.

2 * Sec. 22. AS 45.75.220 is amended to read:

3 Sec. 45.75.220. MISLEADING PACKAGES. A [NO] commodity in pack-
4 age form may not be so wrapped, or put in a container so made, formed,
5 or filled as to mislead the purchaser about [AS TO] the quantity of
6 the contents of the package, and the contents of a container may not
7 fall below the reasonable standard of fill that [WHICH] the commis-
8 sioner [DIRECTOR] prescribes for the commodity.

9 * Sec. 23. AS 45.75.282(b) is amended to read:

10 (b) The vendor shall retain one [ONE] of the tickets provided
11 for in (a) of this section [SHALL BE RETAINED BY THE VENDOR,] and
12 shall deliver the other [SHALL BE DELIVERED] to the purchaser at the
13 time of delivery of the commodity, or surrender the other [SURREN-
14 DERED], on demand, to the commissioner [DIRECTOR, OR THE DEPUTY DIREC-
15 TOR,] or an inspector, or a sealer[,] or a deputy sealer, who may [,
16 IF HE WANTS TO] retain it as evidence and, if it is retained, the
17 commissioner or deputy sealer [,] shall issue a weight slip in place
18 of it.

19 * Sec. 24. AS 45.75.290(b) is amended to read:

20 (b) The vendor shall retain one [ONE] of the tickets, provided
21 for under (a) of this section [SHALL BE RETAINED BY THE VENDOR] and
22 shall deliver the other [SHALL BE DELIVERED] to the purchaser at the
23 time of delivery of the fuel, or shall surrender it, [BE SURRENDERED,]
24 on demand, to the commissioner [DIRECTOR, OR THE DEPUTY DIRECTOR] or
25 an inspector, or a sealer or deputy sealer, who may [, IF HE DESIRES
26 TO] retain it as evidence and [, SHALL] issue a weight slip in place
27 of it for delivery to the purchaser. If the purchaser carries away
28 the [HIS] purchase, the vendor is required only to give to the pur-
29 chaser at the time of sale a delivery ticket stating the number of

1 pounds of fuel delivered to the purchaser [HIM].

2 * Sec. 25. AS 45.75.300 is amended to read:

3 Sec. 45.75.300. TEXTILE PRODUCTS. It is unlawful for a person
4 to keep for the purpose of sale, offer or expose for sale, or sell
5 textile yard goods put up or packaged in advance of sale in a bolt or
6 roll, or another [ANY OTHER] textile product put up or packaged in
7 advance of sale in another [ANY OTHER] unit, for wholesale or retail
8 sale, unless the person definitely, plainly and conspicuously marks
9 the bolt or roll, or other unit [, IS DEFINITELY, PLAINLY, AND CON-
10 SPICUOUSLY MARKED] to show its net measure in terms of yards or its
11 net weight, in terms of avoirdupois pounds or ounces, subject to the
12 following limitations and requirements:

13 (1) a unit of twine or cordage may be marked to show its
14 net measure in terms of feet; readywound bobbins not sold separately
15 are not required to be individually marked, but the package containing
16 the bobbins shall be marked to show the number of bobbins contained in
17 it and the net weight or measure of the thread on each bobbin; a unit
18 of sewing, basting, mending, darning, crocheting, tatting, hand-
19 knitting, or embroidery thread or yarn, except nylon hand-knitting
20 yarn, that is not composed in whole or in part of wool, the net weight
21 of which is less than two ounces avoirdupois, shall be marked to show
22 its net measure in terms of yards as unwound from the ball or from the
23 spool or other holder; a retail unit of a textile product sold only
24 for household use consisting of a package containing two or more
25 similar individual units that are not sold separately shall be marked
26 to show the number of individual units in the package and the net
27 weight or net measure of the product in each individual unit, but this
28 does not apply where the individual units are separately marked; a
29 unit of yarn, composed in whole or in part of wool, sold to consumers

1 for handiwork, shall be marked to show the net weight of the yarn,
2 except that a [ANY SUCH] unit of tapestry, mending, or embroidery yarn,
3 that [THE NET MEASURE OF WHICH] does not exceed 50 yards in net mea-
4 sure, may be marked to show its linear measure only;

5 (2) the marking required by this section shall in all cases
6 be in combination with the name and place of business of the manufac-
7 turer, packer, or distributor of the product, or a trademark, symbol,
8 brand, or other mark that identifies the manufacturer, packer, or
9 distributor;

10 (3) reasonable tolerances shall be permitted, and the
11 commissioner shall include reasonable tolerances [THESE SHALL BE
12 INCLUDED] in regulations adopted for the enforcement of this section
13 [THAT ARE ISSUED BY THE DIRECTOR];

14 (4) this section does not apply to the following textile
15 products when sold at wholesale in bulk by net weight: cordage, agri-
16 cultural bag sewing threads, twines, yarns that are to be processed,
17 and yarns that are to be industrially converted into end-use products.

18 * Sec. 26. AS 45.75.330 is amended to read:

19 Sec. 45.75.330. INJUNCTION. The commissioner [DIRECTOR] may
20 apply to a court for a temporary or permanent injunction restraining a
21 person from violating a provision of this chapter.

22 * Sec. 27. AS 45.75.380 is amended to read:

23 Sec. 45.75.380. OFFENSES AND PENALTIES. (a) A person commits a
24 violation subject to the penalty specified in AS 12.55.035(b)(5) if
25 the person does one or more of the following acts [A PERSON WHO, BY
26 HIMSELF OR BY HIS SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF
27 ANOTHER, PERFORMS ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A MISDE-
28 MEANOR AND UPON A FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE BY A
29 FINE OF NOT LESS THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT FOR

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

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

10 (2) uses or has in possession for current use, in buying or
11 selling a commodity or thing, or for hire or award, or in the computa-
12 tion of a basic charge or payment for services rendered on the basis
13 of weight or measurement, or in the determination of weight or mea-
14 surement when a charge is made for determination, a weight or measure
15 that has not been tested and sealed by the appropriate authority
16 within one year, (A) unless the person gives written notice [IS GIVEN]
17 to the appropriate authority to the effect that the weight or measure
18 is available for examination, or is due for reexamination [RE-EXAMINA-
19 TION], as the case may be, (B) unless the person receives specific
20 written permission to use the weight or measure [IS RECEIVED], from the
21 appropriate authority, or (C) unless the weight or measure is exempt
22 from sealing or annual testing requirements by AS 45.75.080 or by a
23 regulation adopted [OF THE DIRECTOR ISSUED] under AS 45.75.050;

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

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

29 (5) sells or[,] offers [OR EXPOSES] for sale less than the

1 quantity the person [HE] represents of a commodity, thing, or service;

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

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

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

17 (9) hinders or obstructs the commissioner, an inspector, a
18 sealer, or a deputy sealer in the performance of official duties under
19 this chapter;

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

22 (11) violates a weight, load, or size limitation established
23 under AS 19.10.060 or a regulation adopted under AS 19.05.020, AS 44.-
24 33.020(25), or AS 45.75.050(b)(5);

25 (12) violates a provision of this chapter or of a regulation
26 adopted under this chapter for which a specific penalty is not pre-
27 scribed.

28 (b) Notwithstanding the maximum fine for a violation provided
29 under (a) of this section, the commissioner shall impose on a person

1 who violates a regulation or special permit governing the weight limit
2 of a motor vehicle a maximum penalty of \$.05 for each pound of weight
3 over the authorized weight limit for the vehicle.

4 * Sec. 28. AS 45.75.390(4) is repealed and reenacted to read:

5 (4) "commissioner" means the commissioner of commerce and
6 economic development or the commissioner's designee;

7 * Sec. 29. AS 28.40.050(e) and AS 45.75.360 are repealed.

8 * Sec. 30. This Act takes effect immediately in accordance with AS 01.-
9 10.070(c).

REPEALED

§ 28.40.050

§ 28.40.050

(e) Notwithstanding the maximum fine provided for infractions under (c) of this section, for the violation of regulations or special permits issued governing vehicle weight limits, overweight penalties shall be imposed at the rate of five cents for each pound of weight over the authorized weight limit for that vehicle. (§ 50-1-8 ACLA 1949; am § 12 ch 241 SLA 1976; am §§ 22, 23 ch 144 SLA 1977)

Revisor's notes. — Formerly AS
28.35.230. Renumbered in 1984.

Sec. 45.75.360. Hindering or obstructing officer and penalty.
A person who hinders or obstructs the director, the deputy director, or an inspector, or a sealer or deputy sealer, in the performance of his official duties, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$20 nor more than \$200, or by imprisonment for not more than three months, or by both. (§ 37 ch 101 SLA 1961)