

postmaster, with a designation of his title as postmaster, shall have affixed the cancellation stamp of the post office, and shall state the name of the post office and the date on which such act was done.

(3) The postmaster is authorized to charge and receive the fees a notary would receive for similar services.

Sec. 14. Saving Clause. This Act shall not be construed as to effect the release or extinguishment of any liability or forfeiture incurred or right accruing under any previous law regulating notaries. All commissions presently in effect continue until they expire or are terminated by death, disqualification, resignation, re-

moval from the State, or until the notary is removed from office by the Secretary of State pursuant to the Administrative Procedure Act.

Sec. 15. Repealer. The following laws and parts of laws are repealed: Secs. 17-1-1, ACLA 1949, as amended by Sec. 1, Ch. 3, SLA 1959; 17-1-2, ACLA 1949, as amended by Sec. 2, Ch. 3, SLA 1959; 17-1-3, ACLA 1949, as amended by Sec. 3, Ch. 3, SLA 1959; 17-1-4, ACLA 1949, as amended by Sec. 4, Ch. 3, SLA 1959; 17-1-5, 17-1-6, 17-1-7, 17-1-8, 17-1-9, 17-1-10, 17-1-11, 17-1-12, 23-1-1, 23-1-2, 23-1-3, ACLA 1949.

Sec. 16. Effective Date. The effective date of this Act is July 1, 1961.

Approved April 15, 1961

CHAPTER 100

AN ACT

Transferring funds between line item appropriations made to the Department of Commerce and the Division of Tourism and Economic Development; and providing for an effective date.

(H.B. 282)

Be it enacted by the Legislature of the State of Alaska:

Section 1. The sum of \$18,000 is transferred from the line item appropriation for Personal Services under Departmental Operations for the Department of Commerce for the fiscal year ending June 30,

1961, to the line item appropriation for the division of tourism and economic development, Department of Commerce, for the fiscal year ending June 30, 1961.

Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved April 15, 1961

CHAPTER 101

AN ACT

Establishing standards of weights and measures; providing for a state director of weights and measures and defining his powers and duties; providing for city sealers of weights and measures; providing for the inspection, testing, and sealing of appliances used for weighing and measuring; providing for the marking of packages containing commodities; providing penalties for violations of the provisions of this Act; repealing Secs. 35-5-1 through 35-5-11; ACLA 1949, as amended by Ch. 94, SLA 1951, Ch. 85, SLA 1955, and Ch. 143, SLA 1957; and providing for an effective date.

(H.B. 50)

Be it enacted by the Legislature of the State of Alaska:

Section 1. **Short Title.** This Act shall be known and may be cited as the "Alaska Weights and Measures Act."

Sec. 2. **Meaning of Terms.** When used in this Act:

a. "Person" means both the plural and singular, as the case demands, and shall include individuals, partnerships, corpora-

tions, companies, societies, and associations.

b. "Weight(s) and (or) measure(s)" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any or all such instruments and devices, except that the term shall not be construed to include meters for the measurement of electricity, gas (natural or manufactured), or water when the same are operated in a public utility system. Such electricity, gas and water meters are hereby specifically excluded from the purview of this Act, and none of the provisions of this Act shall be construed to apply to such meters or to any appliances or accessories associated therewith.

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

d. "Director" and "deputy director" means, respectively, the state director of weights and measures and the deputy state director of weights and measures.

e. "Inspector" means a state inspector of weights and measures.

f. "Sealer" and "deputy sealer" means, respectively, a sealer of weights and measures and a deputy sealer of weights and measures of a city.

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

h. "Commodity in package form" means commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing packages that individually conform to the requirements of this Act. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be construed to be commodity in package form.

Sec. 3. Systems of Weights and Measures. The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and one or the other of these systems shall be used for all

commercial purposes in the State of Alaska. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents, as published by the National Bureau of Standards, are recognized and shall govern weighing and measuring equipment and transactions in the state.

Sec. 4. Definitions of Special Units of Measure. The term "barrel," when used in connection with fermented liquor, means a unit of 31 gallons. The term "ton" means a unit of 2,000 pounds avoirdupois weight. The term "cord," when used in connection with wood intended for fuel purposes, means the amount of wood that is contained in a space of 128 cubic feet when the wood is ranked and well stowed.

Sec. 5. State Standards of Weight and Measure. Such weights and measures in conformity with the standards of the United States as have been supplied to the state by the Federal Government or otherwise obtained by the state for use as state standards shall, when the same shall have been certified as being satisfactory for use as such by the National Bureau of Standards, be the state standards of weight and measure. The state standards shall be kept in a safe and suitable place in the office or laboratory of the State Division of Weights and Measures, they shall not be removed from the said office or laboratory except for repairs or for certification, and they shall be submitted at least once in ten years to the National Bureau of Standards for certification. The state standards shall be used only in verifying the office standards and for scientific purposes.

Sec. 6. Office and Working Standards and Equipment. In addition to the state standards provided for in Sec. 5 of this Act, there shall be supplied by the state at least one complete set of copies of these to be kept in the office or laboratory of the State Division of Weights and Measures and to be known as "office standards," and also such "field standards" and such equipment as may be found necessary to carry out the provisions of this Act. The office standards and field standards shall be verified upon their initial receipt and at least once each year thereafter, the office standards by direct comparison with the state standards and the field standards by comparison with the office standards.

Sec. 7. State Director and Inspectors of Weights and Measures. There shall be a state director of weights and measures. The Commissioner of the Department of Commerce shall be, *ex officio*, the director. The director may appoint state inspectors.

Sec. 8. General Powers and Duties of Director. The director shall have the custody of the state standards of weight and measure and of the other standards and equipment provided for by this Act, and shall keep accurate records of the same. The director shall enforce the provisions of this Act. He shall have and keep a general supervision over the weights and measures offered for sale, sold, or in use in the state.

Sec. 9. Specific Powers and Duties of Director: Regulations. The director shall issue from time to time, pursuant to the Administrative Procedure Act, reasonable regulations for the enforcement of this Act, which regulations shall have the force and effect of law. These 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 Sec. 15 of this Act with respect to weights and measures of such character or size that such sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question; and (4) with respect to classes of weights and measures found to be of such character that annual retesting is unnecessary to continued accuracy, exemptions from the requirements of Secs. 10 and 11 of this Act for annual testing, and schedules fixing the frequency of required retests for classes of devices so exempted. These regulations shall include specifications, tolerance, and regulations for weights and measures of the character of those specified in Sec. 11 of this Act, 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 faulty—that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly—or (3)

that facilitate the perpetration of fraud. The specifications, tolerances, and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the National Bureau of Standards and published in National Bureau of Standards Handbook 44 and supplements thereto, or in any publication revising or superseding Handbook 44, shall be the specifications, tolerances, and regulations for commercial weighing and measuring devices of the State of Alaska, except insofar as specifically modified, amended, or rejected by a regulation issued by the director. For the purposes of this Act, apparatus shall be deemed to be "correct" when it conforms to all applicable requirements promulgated as specified in this section; other apparatus shall be deemed to be "incorrect."

Sec. 10. Same: Testing of Standards: Testing at State-supported Institutions. The director, at least once every five years, shall test the standards of weight and measure procured by any city for which the appointment of a sealer of weights and measures is provided by this Act, and shall approve the same when found to be correct, and he shall inspect such standards at least once every two years. He shall from time to time test all weights and measures used in checking the receipt or disbursement of supplies in every institution for the maintenance of which monies are appropriated by the legislature, reporting his findings, in writing, to the supervisory board and to the executive officer of the institution concerned.

Sec. 11. Same: General Testing. When not otherwise provided by law, the director shall have the power to inspect and test, to ascertain if they are correct, all weights and measures kept, offered, or exposed for sale. It shall be the duty of the director, at least annually and as much oftener as he may deem necessary, to inspect and test, to ascertain if they are correct, all weights and measures commercially used (1) in determining the weight, measurement, or count of commodities or things sold, or offered or exposed for sale, on the basis of weight or of measure; (2) in computing the basic charge or payment for services rendered on the basis of weight or of measure; or (3) in determining weight or measurement when a charge is made for such determination; provided, that with respect to single-service devices—that is, devices designed to be used

commercially only once and to be then discarded — and with respect to devices uniformly mass-produced, as by means of a mold or die, and not susceptible of individual adjustment, the inspection and testing of each individual device shall not be required and the inspecting and testing requirements of this section will be satisfied when inspections and tests are made on representative samples of such devices; and the lots of which such samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on such samples.

Sec. 12. Same: Investigations. The director shall investigate complaints made to him concerning violations of the provisions of this Act, and shall, upon his own initiative, conduct such investigations as he deems appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of the provisions of this Act and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

Sec. 13. Same: Inspection of Packages. The director shall, from time to time, weigh or measure and inspect packages or amounts of commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether the same contain the amounts represented and whether they be kept, offered, or exposed for sale, or sold, in accordance with law; and when such packages or amounts of commodities are found not to contain the amounts represented, or are found to be kept, offered, or exposed for sale in violation of law, the director may order them off sale and may so mark or tag them as to show them to be illegal. In carrying out the provisions of this section, the director may employ recognized sampling procedures under which the compliance of a given lot of packages will be determined on the basis of the result obtained on a sample selected from and representative of such lot. No person shall (1) sell, or keep, offer, or expose for sale in intrastate commerce any package or amount of commodity that has been ordered off sale or marked or tagged as provided in this section unless and until such package or amount of commodity has been brought into full compliance with all legal requirements; or (2) dispose of any package or

amount of commodity that has been ordered off sale or marked or tagged as provided in this section and that has not been brought into compliance with legal requirements, in any manner except with the specific approval of the director.

Sec. 14. Same: Stop-use, Stop-removal, and Removal Orders. The director shall have the power to issue stop-use orders, stop-removal orders, and removal orders with respect to weights and measures being, or susceptible of being, commercially used, and to issue stop-removal orders and removal orders with respect to packages or amounts of commodities kept, offered, or exposed for sale, sold, or in process of delivery, whenever in the course of his enforcement of the provisions of this Act he deems it necessary or expedient to issue such orders, and no person shall use, remove from the premises specified, or fail to remove from the premises specified any weight, measure, or package or amount of commodity contrary to the terms of a stop-use order, stop-removal order, or removal order issued under the authority of this section.

Sec. 15. Same: Disposition of Correct and Incorrect Apparatus. The director shall approve for use and seal or mark with appropriate devices such weights and measures as he finds upon inspection and test to be "correct" as defined in Sec. 9 of this Act, and shall reject and mark or tag as "rejected" such weights and measures as he finds, upon inspection or test, to be "incorrect" as defined in Sec. 9 of this Act, but which in his best judgment are susceptible of satisfactory repair; provided, that such sealing or marking shall not be required with respect to such weights and measures as may be exempted therefrom by a regulation of the director issued under the authority of Sec. 9 of this Act. The director shall condemn, and may seize and may destroy, weights and measures found to be incorrect that, in his best judgment, are not susceptible of satisfactory repair. Weights and measures that have been rejected may be confiscated and may be destroyed by the director if not corrected as required by Sec. 21 of this Act or if used or disposed of contrary to the requirements of Sec. 21 of this Act.

Sec. 16. Same: Police Powers: Right of Entry and Stoppage. With respect to the enforcement of this Act and any other Acts dealing with weights and measures that

he is, or may be, empowered to enforce, the director is hereby vested with special police powers, and is authorized to arrest, without formal warrant, any violator of the said Acts, and to seize for use as evidence, without formal warrant, incorrect or unsealed weights and measures or amounts or packages of commodity, found to be used, retained, offered or exposed for sale, or sold in violation of law. In the performance of his official duties, the director is authorized to enter and go into or upon, without formal warrant, any structure or premises, and to stop any person whatsoever and to require him to proceed, with or without any vehicle of which he may be in charge, to some place which the director may specify.

Sec. 17. Powers and Duties of Deputy Director and Inspector. The powers and duties given to and imposed upon the director by Secs. 10, 11, 12, 13, 14, 15, 16, 20, and 39 of this Act are hereby given to and imposed upon the deputy director and inspectors also, when acting under the instructions and at the direction of the director.

Sec. 18. Cities: Appointment of Sealers and Deputy Sealers of Weights and Measures: Standards and Equipment. Cities may appoint a sealer of weights and measures, and such deputy sealers of weights and measures as may be required. Where a sealer has been so appointed, there shall be procured at the expense of the city such standards of weights and measures and such additional equipment, to be used for the enforcement of the provisions of this Act in such city, as maybe prescribed by the director. When the standards of weight and measure required by this section to be provided by a city shall have been examined and approved by the director, they shall be the official standards for such city. It shall be the duty of the sealer to make, or to arrange to have made, at least as frequently as every five years, comparisons between his field standards and appropriate standards of a higher order belonging to his city or to the state, in order to maintain such field standards in accurate condition.

Sec. 19. City Sealers and Deputy Sealers. The sealer of a city, and his deputy sealers when acting under his instructions and at his direction, shall have the same powers and shall perform the same duties within the city for which appointed as are

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

Sec. 20. Concurrent Jurisdiction. In cities for which sealers of weights and measures have been appointed as provided for in this Act, the director shall have concurrent authority to enforce the provisions of this Act.

Sec. 21. Duty of Owners of Incorrect Apparatus. Weights and measures that have been rejected under the authority of the director or of a sealer shall remain subject to the control of the rejecting authority until such time as suitable repair or disposition thereof has been made as required by this section. The owners of such rejected weights and measures shall cause the same to be made correct within 30 days or such longer period as may be authorized by the rejecting authority; or, in lieu of this, may dispose of the same, but only in such manner as is specifically authorized by the rejecting authority. Weights and measures that have been rejected shall not again be used commercially until they have been officially reexamined and found to be correct or until specific written permission for such use is issued by the rejecting authority.

Sec. 22. Method of Sale of Commodities: General. Commodities in liquid form shall be sold only by liquid measure or by weight, and, except as otherwise provided in this Act, commodities not in liquid form shall be sold only by weight, by measure of length or area, or by count; provided, that liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if such methods give accurate information as to the quantity of commodity sold; and provided further, that the provisions of this section shall not apply (1) to commodities when sold for immediate consumption on the premises where sold, (2) to vegetables when sold by the head or bunch, (3) to commodities in containers standardized by a law of this state or by federal law, (4) to berries and small fruits when sold by dry measure in conformance with Sec. 35 of this Act, (5) to commodities in package form when there exists a general consumer usage to express the quantity in some other manner, (6) to concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure, or (7) to unprocessed vegetable and ani-

mal fertilizer when sold by cubic measure. The director may issue such reasonable regulations as are necessary to assure that amounts of commodity sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative to all parties at interest.

Sec. 23. Same: Packages: Declarations of Quantity and Origin: Tolerances: Exemptions. Except as otherwise provided in this Act, any commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale in intrastate commerce shall bear on the outside of the package a definite, plain, and conspicuous declaration of (1) the net quantity of the contents in terms of weight, measure, or count, and (2) in the case of any package kept, offered, or exposed for sale, or sold in any place other than on the premises where packed, the name and place of business of the manufacturer, packer, or distributor; provided, that in connection with the declaration required under clause (1), neither the qualifying term "when packed" or any words of similar import, nor any term qualifying a unit of weight, measure, or count (for example "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of commodity in a package, shall be used; and provided further, that under clause (1) the director shall, by regulation, establish (a) reasonable variations or tolerances to be allowed, which may include variations below the declared weight or measure caused by ordinary and customary exposure, only after the commodity is introduced into intrastate commerce, to conditions that normally occur in good distribution practice and that unavoidably result in decreased weight or measure, (b) exemption as to small packages, and (c) exemptions as to commodities put up in variable weights or sizes for sale to the consumer intact and either customarily not sold as individual units or customarily weighed or measured at the time of sale to the consumer.

Sec. 24. Same: Declarations of Unit Price on Random Packages. In addition to the declarations required by Sec. 23 of this Act, any commodity in package form, the package being one of a lot containing random weights, measures, or counts of the same commodity and bearing the total

selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure, or count.

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

Sec. 26. Sale by Net Weight. The word "weight" as used in this Act in connection with any commodity shall mean net weight. Whenever any commodity is sold on the basis of weight, the net weight of the commodity shall be employed, and all contracts concerning commodities shall be so construed.

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

Sec. 28. Meat, Poultry, and Sea Food. All meat, meat products, poultry (whole or parts), and all sea food except shellfish, offered or exposed for sale or sold as food, shall be offered or exposed for sale and sold by unit or weight. When meat, poultry, or sea food is combined with or associated with some other food element or elements to form either a distinctive food product or a food combination, such food product or combination shall be offered or exposed for sale and sold by unit or weight.

Sec. 29. Bread. Each loaf of bread and each unit of a twin or multiple loaf made or procured for sale, kept, offered, exposed for sale, or sold, whether or not the

bread is wrapped or sliced, shall weigh $\frac{1}{2}$ pound, 1 pound, $1\frac{1}{2}$ pounds, or a multiple of 1 pound, avoirdupois weight, within reasonable variations or tolerances that shall be promulgated by regulations by the director: provided, that the provisions of this section shall not apply to biscuits, buns, or rolls, weighing 4 ounces or less, or to "stale bread" sold and expressly represented at the time of sale as such, and that the marking provisions of Sec. 23, shall not apply to unwrapped loaves of bread.

Sec. 30. Butter, Oleomargarine, and Margarine. Butter, oleomargarine, and margarine shall be offered and exposed for sale and sold by weight and only in units of $\frac{1}{4}$ pound, $\frac{1}{2}$ pound, 1 pound, or multiples of 1 pound, avoirdupois weight.

Sec. 31. Fluid Dairy Products. All fluid dairy products, including but not limited to whole milk, skimmed milk, cultured milk, sweet cream, sour cream, and buttermilk, shall be packaged for retail sale only in units of 1 gill, $\frac{1}{2}$ liquid pint, 10 fluid ounces, 1 liquid pint, 1 liquid quart, $\frac{1}{2}$ gallon, 1 gallon, or multiples of 1 gallon: provided, that packages in units of less than 1 gill shall be permitted.

Sec. 32. Flour, Corn Meal, and Hominy Grits. When in package form, and when packed, kept, offered, or exposed for sale or sold, wheat flour, whole wheat flour, graham flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meal, and hominy grits shall be packaged only in units of 3, 5, 10, 25, 50, or 100 pounds, avoirdupois weight: provided, that packages in units of less than 3 pounds or more than 100 pounds shall be permitted.

Sec. 33. Coal, Coke, and Charcoal. All coal, coke and charcoal shall be sold by weight. Unless the fuel is delivered to the purchaser in package form, each delivery of coal, coke, or charcoal to an individual purchaser shall be accompanied by duplicate delivery tickets on which, in ink or other indelible substance, there shall be clearly stated (1) the name and address of the vendor, (2) the name and address of the purchaser, and (3) the net weight of the delivery and the gross and tare weights from which the net weight is computed, each expressed in pounds.

One of these tickets shall be retained by the vendor and the other shall be delivered to the purchaser at the time of delivery of the fuel, or shall be surrendered, on demand, to the director, or the deputy director or an inspector, or a sealer or deputy sealer, who, if he desires to retain it as evidence, shall issue a weight slip in lieu thereof for delivery to the purchaser: provided, that if the purchaser carries away his purchase, the vendor shall be required only to give to the purchaser at the time of sale a delivery ticket stating the number of pounds of fuel delivered to him.

Sec. 34. Textile Products. It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell any textile yard goods put up or packaged in advance of sale in a bolt or roll, or any other textile product put up or packaged in advance of sale in any other unit, for either wholesale or retail sale, unless such bolt or roll, or such other unit, be definitely, plainly, and conspicuously marked to show its net measure in terms of yards or its net weight in terms of avoirdupois pounds or ounces, subject, however, to the following limitations and requirements:

a. Any unit of twine or cordage may be marked to show its net measure in terms of feet. Ready-wound bobbins that are not sold separately shall not be required to be individually marked, but the package containing such bobbins shall be marked to show the number of bobbins contained therein and the net weight or measure of the thread on each bobbin. Any unit of sewing, basting, mending, darning, crocheting, tatting, hand-knitting, or embroidery thread or yarn, except nylon hand-knitting yarn, that is not composed in whole or in part of wool, the net weight of which is less than two ounces avoirdupois, shall be marked to show its net measure in terms of yards as unwound from the ball or from the spool or other holder. Any retail unit of textile product, sold only for household use, consisting of a package containing two or more similar individual units that are not sold separately, shall be marked to show the number of individual units in the package and the net weight or net measure of the product in each individual unit, but this proviso shall not apply where the individual units are separately marked. Any unit of yarn, composed in whole or in part of wool, sold to consumers for handiwork, shall be

marked to show the net weight of such yarn, except that any such unit of tapestry, mending, or embroidery yarn, the net measure of which does not exceed fifty yards, may be marked to show its linear measure only.

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

c. Reasonable tolerances shall be permitted, and these shall be included in regulations for the enforcement of the provisions of this section that shall be issued by the director.

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

Sec. 35. Berries and Small Fruits. Berries and small fruits shall be offered and exposed for sale and sold by weight, or by measure in open containers having capacities of $\frac{1}{2}$ dry pint, 1 dry pint, or 1 dry quart: provided, that the marking provisions of Sec. 23 of this Act shall not apply to such containers.

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

Sec. 37. Hindering or Obstructing Officer; Penalties. Any person who shall hinder or obstruct in any way the director, the deputy director, or any one of the inspectors, or a sealer or deputy sealer, in the performance of his official duties, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$20.00 or more than \$200.00, or by imprisonment for not more than 3 months, or by both such fine and imprisonment.

Sec. 38. Impersonation of Officer; Pen-

alties. Any person who shall impersonate in any way the director, the deputy director, or any one of the inspectors, or a sealer or deputy sealer, by the use of his seal or a counterfeit of his seal, or in any other manner, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100.00 or more than \$500.00, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

Sec. 39. Offenses and Penalties. Any person who, by himself or by his servant, or agent, or as the servant or agent of another person, performs any one of the acts enumerated in Subsecs. a. through i. of this section shall be guilty of a misdemeanor and, upon a first conviction thereof, shall be punished by a fine of not less than \$20.00 or more than \$200.00, or by imprisonment for not more than 3 months, or by both such fine and imprisonment; and upon a second or subsequent conviction thereof, he shall be punished by a fine of not less than \$50.00 or more than \$500.00, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

a. Use or have in possession for the purpose of using for any commercial purpose specified in Sec. 11, sell, offer, or expose for sale, or hire, or have in possession for the purpose of selling or hiring, an incorrect weight or measure or any device or instrument used to or calculated to falsify any weight or measure.

b. Use, or have in possession for current use, in buying or selling of any commodity or thing, or for hire or award, or in the computation of any basic charge or payment for services rendered on the basis of weight or measurement, or in the determination of weight or measurement when a charge is made for such determination, any weight or measure that has not been tested and sealed by the appropriate authority within one year, (a) unless written notice has been given to the appropriate authority to the effect that such weight or measure is available for examination, or is due for reexamination, as the case may be, (b) unless specific written permission to use such weight or measure has been received from the appropriate authority, or (c) unless such weight or measure has been exempted from sealing or annual testing requirements by the provisions of Sec. 11 of this Act or by a

regulation of the director issued under the authority of Sec. 9 of this Act.

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

d. Remove from any weight or measure, contrary to law or regulation, any tag, seal, or mark placed thereon by the appropriate authority.

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

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

g. Keep for the purpose of sale, advertise, or offer or expose for sale, or sell any commodity, thing, or service in a condition or manner contrary to law or regulation.

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

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

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

Sec. 41. **Presumptive Evidence.** For the purposes of this Act, proof of the existence of a weight or measure or a weighing or measuring device in or about any building, enclosure, stand or vehicle in which or from which it is shown that buying or selling is commonly carried on, shall, in the absence of conclusive evidence to the contrary, be presumptive proof of the regular use of such weight or measure or weighing or measuring device for commercial purposes and of such use by the person in charge of such building, enclosure, stand, or vehicle.

Sec. 42. **Validity of Prosecutions.** Prosecutions for violation of any provision of this Act are declared to be valid and proper notwithstanding the existence of any other valid general or specific Act of this state dealing with matters that may be the same as or similar to those covered by this Act.

Sec. 43. **Separability Provision.** If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

Sec. 44. **Repealer.** Sec. 35-5-1, ACLA 1949, as amended by Sec. 1, Ch. 143, SLA 1957; Sec. 35-5-2, ACLA 1949, as amended by Sec. 1, Ch. 94, SLA 1951 and Sec. 1, Ch. 84, SLA 1955; Secs. 35-5-3 through 35-5-11, ACLA 1949; and Secs. 35-5-12 through 35-5-25 as added by Ch. 143, SLA 1957 are repealed; provided however that as to offenses committed, liabilities incurred, and claims now existing, the laws that are repealed by this Act shall remain in full force and effect.

Sec. 45. **Effective Date.** This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved April 17, 1961

CHAPTER 102

AN ACT

Relating to the Fish and Game Code of Alaska; amending Subsection (j) of Sec. 2, Art. I, Ch. 94, SLA 1959 as amended by Sec. 2, Ch. 131, SLA 1960; amending Subsection (k) of Sec. 2, Art. I, Ch. 94, SLA 1959; and repealing Subsection (1) of Sec. 2, Art. I, Ch. 94, SLA 1959; and providing for an effective date.

(H.B. 240)