

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Weights and Measures Act is amended by changing Sections 2, 6, 7, 8, 8.1, 10, 11, 12, 13, 14, 15, 16, 19, 20, 21, 23, 26, 30, 40, 41, 52, 54, 55, 56, and 56.1 as follows:

(225 ILCS 470/2) (from Ch. 147, par. 102)

Sec. 2. Definitions. As used in this Act:

"Person" means both singular and plural as the case demands, and includes individuals, partnerships, corporations, companies, societies and associations.

"Weights and measures" 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, including all grain moisture measuring devices, but does not include meters for the measurement of electricity, gas (natural or manufactured) or water operated in a public utility system. These electricity meters, gas meters, and water meters, and their appliances or accessories, and slo flo meters, are specifically excluded from the scope and applicability of this Act.

"Sell" and "sale" includes barter and exchange.

"Director" means the Director of Agriculture.

"Department" means the Department of Agriculture.

"Inspector" means an inspector of weights and measures of this State.

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

"Intrastate commerce" means any and all commerce or trade that is commenced, conducted and completed wholly within the limits of this State, and the phrase "introduced into intrastate commerce" means the time and place at which the first sale and delivery being made either directly to the purchaser or to a carrier for shipment to the purchaser.

"Commodity in package form" means a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, excluding any auxiliary shipping container enclosing packages which 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 deemed a commodity in package form.

"Consumer package" and "package of consumer commodity" mean any commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals or use by

individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions, and which usually is consumed or expended in the course of such consumption or use.

"Nonconsumer package" and "package of nonconsumer commodity" mean any commodity in package form other than a consumer package, and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.

"Certificate of Conformance" means a document issued by the National Conference on Weights and Measures based on testing in participating laboratories that indicates that the weights and measures or weighing and measuring device conform with the requirements of National Institute of Standards and Technology's Handbooks 44, 105-1, 105-2, 105-3, ~~or~~ 105-4, or 105-8 and any subsequent revisions or supplements thereto.

"Prepackage inspection violation" means that the majority of the lots of prepackaged commodities inspected at a single location are found to have one or more packages below the maximum allowable variation as published in the National Institute of Standards and Technology Handbook 133 or the majority of the lots inspected at a single location are found to be below the stated net weight declaration on an average.

(Source: P.A. 92-676, eff. 7-16-02.)

(225 ILCS 470/6) (from Ch. 147, par. 106)

Sec. 6. The Director shall be, ex officio, the director of weights and measures for the State of Illinois. The Director may designate or appoint qualified persons to represent him in carrying out his responsibilities as set forth in this Act. There shall be State inspectors of weights and measures and necessary technical and clerical personnel, appointed by the Director ~~director~~ in compliance with regulations of the Department of Central Management Services to hold office during good behavior, and to constitute the weights and measures staff.

(Source: P.A. 82-789.)

(225 ILCS 470/7) (from Ch. 147, par. 107)

Sec. 7. The Director ~~director~~ shall maintain custody of the State standards of weight and measure and of other standards and equipment provided for by this Act and shall keep accurate records thereof. The Director ~~director~~ shall enforce the provisions of this Act, shall maintain general supervision of weights and measures offered for sale, sold or in use in this State, and shall submit an annual report to the Governor each January, summarizing all activities of his office.

(Source: Laws 1963, p. 3433.)

(225 ILCS 470/8) (from Ch. 147, par. 108)

Sec. 8. Regulations; issuance; contents. The Director

shall from time to time issue reasonable regulations for enforcement of this Act that shall have the force and effect of law. In determining these regulations, he shall appoint, consult with, and be advised by committees representative of industries to be affected by the regulations. 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, and (3) exemptions from the sealing or marking requirements of Section 14 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. These regulations shall include specifications, tolerances, and regulations for weights and measures, of the character of those specified in Section 10 of this Act, designed to eliminate from use (without prejudice to apparatus that conforms as closely as practicable to the official standards) such weights and measures as are (1) inaccurate, (2) of faulty construction (that is, not reasonably permanent in their adjustment or not capable of correct repetition of their indications), or (3) conducive to the perpetration of fraud. Specifications, tolerances, and regulations for commercial weighing and measuring devices recommended by the National

Institute of Standards and Technology and published in National Institute of Standards and Technology 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 this State, except insofar as specifically modified, amended, or rejected by a regulation issued by the Director.

The National Institute of Standards and Technology Handbook 133 and its supplements, or any publication revising or superseding Handbook 133, shall be the method for checking the net contents of commodities in package form. The National Institute of Standards and Technology Handbooks 105-1, 105-2, 105-3, 105-4, 105-8, and their supplements, or any publication revising or superseding Handbooks 105-1, 105-2, 105-3, ~~and~~ 105-4, and 105-8 shall be specifications and tolerances for reference standards and field standards weights and measures.

For purposes of this Act, apparatus shall be deemed "correct" when it conforms to all applicable requirements promulgated as specified in this Section. Apparatus that does not conform to all applicable requirements shall be deemed "incorrect".

The Director is authorized to prescribe by regulation, after public hearings, container sizes for fluid dairy products ~~in addition to those sizes provided in Section 47~~ and container sizes for ice cream, frozen desserts, and similar items.

The Uniform Packaging and Labeling Regulation and the Uniform Regulation for the Method of Sale of Commodities in the National Institute of Standards and Technology Handbook 130, and any of its subsequent supplements or revisions, shall be the requirements and standards governing the packaging, labeling, and method of sale of commodities for this State, except insofar as specifically modified, amended, or rejected by regulation issued by the Director.

(Source: P.A. 88-600, eff. 9-1-94.)

(225 ILCS 470/8.1) (from Ch. 147, par. 108.1)

Sec. 8.1. Registration of servicepersons, service agents, and special sealers. No person, firm, or corporation shall sell, install, service, recondition or repair a weighing or measuring device used in trade or commerce without first obtaining a certificate of registration. Applications by individuals for a certificate of registration shall be made to the Department, shall be in writing on forms prescribed by the Department, and shall be accompanied by the required fee.

Each application shall provide such information that will enable the Department to pass on the qualifications of the applicant for the certificate of registration. The information requests shall include present residence, location of the business to be licensed under this Act, whether the applicant has had any previous registration under this Act or any federal, state, county, or local law, ordinance, or regulation

relating to servicepersons and service Agencies, whether the applicant has ever had a registration suspended or revoked, whether the applicant has been convicted of a felony, and such other information as the Department deems necessary to determine if the applicant is qualified to receive a certificate of registration.

Before any certificate of registration is issued, the Department shall require the registrant to meet the following qualifications:

(1) Has possession of or available for use weights and measures, standards, and testing equipment appropriate in design and adequate in amount to provide the services for which the person is requesting registration.

(2) Passes a qualifying examination for each type of weighing or measuring device he intends to install, service, recondition, or repair.

(3) Demonstrates a working knowledge of weighing and measuring devices for which he intends to be registered.

(4) Has a working knowledge of all appropriate weights and measures laws and their rules and regulations.

(5) Has available a current copy of National Institute of Standards and Technology Handbook 44.

(6) Pays the prescribed registration fee for the type of registration:

(A) The annual fee for a Serviceperson Certificate of Registration shall be \$25.

(B) The annual fee for a Special Sealer Certificate of Registration shall be \$50.

(C) The annual fee for a Service Agency Certificate of Registration shall be \$50.

"Registrant" means any individual, partnership, corporation, agency, firm, or company registered by the Department who installs, services, repairs, or reconditions, for hire, award, commission, or any other payment of any kind, any commercial weighing or measuring device.

"Commercial weighing and measuring device" means any weight or measure or weighing or measuring device commercially used or employed (i) in establishing size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption which are purchased, offered, or submitted for sale, hire, or award, or (ii) in computing any basic charge or payment for services rendered, except as otherwise excluded by Section 2 of this Act, and shall also include any accessory attached to or used in connection with a commercial weighing or measuring device when the accessory is so designed or installed that its operation affects, or may affect, the accuracy of the device.

"Serviceperson" means any individual who sells, installs, services, repairs, or reconditions, for hire, award, commission, or any other payment of kind, a commercial weighing or measuring device.

"Service agency" means any individual, agency, firm,

company, or corporation that, for hire, award, commission, or any other payment of any kind, sells, installs, services, repairs, or reconditions a commercial weighing or measuring device.

"Special sealer" means any serviceperson who is allowed to service only one service agency's liquid petroleum meters or liquid petroleum measuring devices.

Each registered service agency and serviceperson shall have report forms, known as "Placed in Service Reports". An original and 2 copies of these ~~These~~ forms shall be executed and in triplicate, shall include the assigned registration number (in the case where a registered serviceperson is representing a registered service agency both assigned registration numbers shall be included), and shall be signed by a registered serviceperson or by a registered serviceperson representing a registered service agency for each rejected or repaired device restored to service and for each newly installed device placed in service. Whenever a registered serviceperson or special sealer places into service a weighing or measuring device, there shall be affixed to the device indicator a decal provided by the Department that indicates the device accuracy.

Within 5 days after a device is restored to service or placed in service, the original of a properly executed "Placed in Service Report", together with any official rejection tag or seal removed from the device, shall be mailed to the

Department. ~~A~~ ~~The duplicate~~ copy of the report shall be handed to the owner or operator of the device and ~~a~~ ~~the triplicate~~ copy of the report shall be retained by the service agency or serviceperson.

All field standards that are used for servicing and testing weights and measures devices for which competence is registered shall be submitted to the Director for initial and subsequent verification and calibration at least once every 2 years or as otherwise determined by the Director. When servicing commercial weighing or measuring devices, a registered serviceperson or registered service agency shall not use any field standards or testing equipment that have not been calibrated or verified by the Director. In lieu of submission of physical standards, the Director may accept calibration reports, verification reports, or both from any laboratory that is formally accredited or recognized. The Director shall maintain a list of organizations from which the Department will accept calibration reports. The Department shall retain the right to monitor periodically calibration results, to verify field standard compliance to specifications and tolerance when field standards are initially placed into service or at any intermediate point between calibration, or both.

~~A registered service agency and a registered serviceperson shall submit, at least once every 2 years to the Department for examination and certification, any standards and testing equipment that are used, or are to be used, in the performance~~

~~of the service and testing functions with respect to weighing and measuring devices for which competence is registered. A registered serviceperson or agency shall not use in servicing commercial weighing and measuring devices any standards or testing equipment that have not been certified by the Department.~~

~~When a serviceperson's or service agency's weights and measures are carried to a National Institute of Standards and Technology approved out of state weights and measures laboratory for inspection and testing, the serviceperson or service agency shall be responsible for providing the Department a copy of the current certification of all weights and measures used in the repair, service, or testing of weighing or measuring devices within the State of Illinois.~~

~~All registered servicepersons placing into service scales in excess of 30,000 pounds shall have a minimum of 10,000 pounds of State approved certified test weights to accurately test a scale.~~

Persons working as apprentices are not subject to registration if they work with and under the supervision of a registered serviceperson.

The Director is authorized to promulgate, after public hearing, rules and regulations necessary to enforce the provisions of this Section.

For good cause and after a hearing upon reasonable notice, the Director may deny any application for registration or any

application for renewal of registration, or may revoke or suspend the registration of any registrant.

The Director may publish from time to time as he deems appropriate, and may supply upon request, lists of registered servicepersons and registered service agencies.

All final administrative decisions of the Director under this Section shall be subject to judicial review under the Administrative Review Law. The term "administrative decision" is defined as in Section 1 of the Administrative Review Law.

(Source: P.A. 93-32, eff. 7-1-03.)

(225 ILCS 470/10) (from Ch. 147, par. 110)

Sec. 10. Inspection. Unless otherwise provided by law, the Director may inspect and test all weights and measures held, offered, or exposed for sale to ascertain if they are correct. ~~The Except as otherwise provided in Section 43, the~~ Director shall, within each period of 12 months or more frequently if necessary, inspect and test all law enforcement scales used to determine vehicle weights and 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, measure, or count or (2) in computing the basic charge or payment for services rendered on the basis of weight, measure, or count to ascertain if they are correct. However, with respect to single-service devices (meaning those designed to be used commercially only once and

then discarded) and devices uniformly mass-produced, as by means of a mold or die, and not susceptible to individual adjustment, such tests may be made on representative samples of these devices. 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 the samples.

(Source: P.A. 88-600, eff. 9-1-94.)

(225 ILCS 470/11) (from Ch. 147, par. 111)

Sec. 11. The Director ~~director~~ shall investigate complaints received by him concerning violations of the provisions of this Act and shall 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.

(Source: Laws 1963, p. 3433.)

(225 ILCS 470/12) (from Ch. 147, par. 112)

Sec. 12. The Director ~~director~~ shall from time to time weigh or measure and inspect packages or amounts of commodities held, offered or exposed for sale or sold or in the process of delivery, to determine whether they contain the amounts represented and are being held, offered or exposed for sale or

were sold in accordance with law. When such packages or amounts of commodities are thus determined not to contain the amounts represented or are found to be kept, offered or exposed for sale in violation of law, the Director ~~director~~ may restrain such offer, exposure or sale by order and may so mark or identify them to indicate the illegality thereof. In carrying out the provisions of this Section, the Director ~~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 identified as provided in this Section unless and until such package or amount of commodity fully complies with all legal requirements, or (2) dispose of any package or amount of commodity that has been ordered off sale or marked or identified as provided in this Section and that does not comply with legal requirements in any manner except with the specific approval of the Director ~~director~~.

(Source: Laws 1963, p. 3433.)

(225 ILCS 470/13) (from Ch. 147, par. 113)

Sec. 13. The Director ~~director~~ may issue stop-use orders, stop-removal orders and removal orders with respect to weights and measures being or susceptible of being commercially used,

and may issue stop-removal orders and removal orders with respect to packages or amounts of commodities kept, offered or exposed for sale or 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. No person shall use, remove 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 pursuant to this Section.

(Source: Laws 1963, p. 3433.)

(225 ILCS 470/14) (from Ch. 147, par. 114)

Sec. 14. Upon inspection and test, the Director ~~director~~ shall approve for use and may seal or mark with appropriate devices such weights and measures as he finds to be "correct" and shall reject and mark or tag as "rejected" such weights and measures as he finds to be "incorrect" (but susceptible of satisfactory repair), as defined in Section 8 of this Act. Such sealing or marking is unnecessary with respect to such weights and measures as may be exempted therefrom by a regulation of the Director ~~director~~ issued pursuant to Section 8 of this Act. The Director ~~director~~ shall condemn and may seize and may destroy weights and measures found to be "incorrect" which, in his best judgment, are not susceptible of satisfactory repair. Weights and measures that have been rejected may be confiscated and destroyed by the Director ~~director~~ if not corrected

pursuant to, or if used or disposed of contrary to, Section 22 of this Act.

(Source: Laws 1963, p. 3433.)

(225 ILCS 470/15) (from Ch. 147, par. 115)

Sec. 15. To enforce this Act and other Acts dealing with weights and measures and enforceable by him, the Director ~~director~~ is vested with special police powers, and may without formal warrant both arrest any violator of such Acts and seize for use as evidence 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 performance of his official duties, the Director ~~director~~ may enter and go into or upon any structure or premises without formal warrant and may stop any person and require him to proceed, with or without any vehicle of which he may be in control, to a place specified by the Director ~~director~~.

(Source: Laws 1963, p. 3433.)

(225 ILCS 470/16) (from Ch. 147, par. 116)

Sec. 16. The powers and duties given to and imposed upon the Director ~~director~~ by Sections 9, 10, 11, 12, 13, 14, 15, 21 and 56 of this Act shall also be conferred upon the designated or appointed qualified persons, whenever they act under the instructions and at the direction of the Director ~~director~~.

(Source: P.A. 79-551.)

(225 ILCS 470/19) (from Ch. 147, par. 119)

Sec. 19. Subject to the annual training provisions of Section 17, the ~~The~~ sealer of a city, and each of his deputy sealers when acting under his instructions and at his direction, has the same powers and duties within the city for which appointed as are conferred upon the director by Sections 10, 11, 12, 13, 14, 15 and 56 of this Act. With respect to Section 10, in cities of less than 200,000 population, the powers and duties shall be strictly limited to weighing and measuring devices used in retail trade including, for example, weighing scales of a nominal capacity not greater than 400 pounds, retail liquid-measuring devices, taximeters, odometers, fabric-measuring devices and cordage-measuring devices.

The city inspector of weights and measures shall keep a complete record of all his official acts and shall submit an annual report to the council of the city, and an annual report (by January 15 ~~on July 1~~) under oath to the Director of Agriculture on blanks furnished by him, and any special reports that the Director of Agriculture may request. Failure of a city sealer of weights and measures and each of his or her deputy sealers to attend annual training workshops conducted by the Department or to provide an annual report to the Director or any other special report that the Director requests may invalidate the authority of a city sealer to enforce any

provision of this Act or its regulations.

(Source: Laws 1963, p. 3433.)

(225 ILCS 470/20) (from Ch. 147, par. 120)

Sec. 20. The common or legislative council of each city for which a sealer has been appointed pursuant to Section 17 of this Act shall (1) procure at the expense of the city such standards of weight and measure and such additional equipment, to be used for the enforcement of the provisions of this Act in such city, as may be prescribed by the Director ~~director~~, (2) provide a suitable office for the sealer, and (3) make provision for the necessary clerical services, supplies and transportation and for defraying contingent expenses incident to the official activities of the sealer in carrying out the provisions of this Act. When the standards of weight and measure thus required to be provided by a city have been examined and approved by the Director ~~director~~, they shall be the official standards for such city. The sealer shall make or cause to be made at least annual 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.

(Source: Laws 1963, p. 3433.)

(225 ILCS 470/21) (from Ch. 147, par. 121)

Sec. 21. In cities for which sealers of weights and

measures have been appointed pursuant to this Act, the Director ~~director~~ shall have concurrent authority to enforce the provisions of this Act. The legislative body of each such city may, by ordinance, prescribe the duties of the sealer and enact regulatory measures more restrictive than, but otherwise consistent with, the provisions of this Act.

(Source: Laws 1963, p. 3433.)

(225 ILCS 470/23) (from Ch. 147, par. 123)

Sec. 23. 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. However, 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.

The provisions of this Section do not apply (1) to commodities sold for immediate consumption upon the premises where sold, (2) to vegetables sold by the head or bunch, (3) to commodities in containers standardized by a law of this State or by Federal law, (4) to commodities in package form when there exists a general consumer usage to express the quantity in some other manner, (5) 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 (6) to unprocessed vegetable and animal fertilizer sold by cubic

measure. The Director ~~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.

(Source: Laws 1963, p. 3433.)

(225 ILCS 470/26) (from Ch. 147, par. 126)

Sec. 26. 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 ~~director~~.

(Source: Laws 1963, p. 3433.)

(225 ILCS 470/30) (from Ch. 147, par. 130)

Sec. 30. National Institute of Standards and Technology requirements and specifications. Each type of new weight and measure or weighing and measuring device manufactured, offered, or exposed for sale or sold or given away for the use in trade or commerce, or used in trade and commerce in this State, shall conform with the requirements and specifications in the National Institute of Standards and Technology Handbook 44, 105-1, 105-2, 105-3, ~~or~~ 105-4, or 105-8 and any of their revisions or supplements. A Certificate of Conformance must be

issued prior to the use of such new weight and measure or weighing and measuring device for commercial or law enforcement purposes. Pending the issuance of a Certificate of Conformance, the Department may permit such new weight and measure or weighing and measuring device to be used, provided it meets the specifications and tolerances for that particular weight and measure or weighing and measuring device as set forth in the National Institute of Standards and Technology Handbook 44, 105-1, 105-2, 105-3, ~~or~~ 105-4, or 105-8.

(Source: P.A. 92-676, eff. 7-16-02.)

(225 ILCS 470/40) (from Ch. 147, par. 140)

Sec. 40. Inspection fee; Weights and Measures Fund. The ~~Except as otherwise provided in Section 43, the~~ Director and each sealer shall collect and receive from the user of weights and measures a commercial weighing or measuring device inspection fee. For the use of its Metrology Laboratory, the testings of weights and measures and such other inspection and services performed, the Department shall set a fee, the amount of which shall be according to a Schedule of Weights and Measures Inspection Fees established and published by the Director. The fees so collected and received by the State shall be deposited into a special fund to be known as the Weights and Measures Fund. All weights and measures inspection fees, metrology fees, weights and measures registrations, and weights and measures penalties collected by the Department

under this Act shall be deposited into the Weights and Measures Fund. The amount annually collected shall be used by the Department for activities related to the enforcement of this Act and the Motor Fuel and Petroleum Standards Act, and for the State's share of the costs of the Field Automation Information Management project. No person shall be required to pay more than 2 inspection fees for any one weighing or measuring device in any one year when found to be accurate. When an inspection is made upon a weighing or measuring device because of a complaint by a person other than the owner of such weighing or measuring device, and the device is found accurate as set forth in Section 8 of this Act, no inspection fee shall be paid by the complainant. Any time a weighing or measuring device is found to be inaccurate, the user shall pay the inspection fee.

If any person fails or refuses to pay a fee authorized by this Section, the Department may prohibit that person from using commercial weighing and measuring devices. In addition to prohibiting the use of the device, the Department may also recover interest at the rate of 1% per month from the time the payment is owed to the Department until the time the Department recovers the fee.

(Source: P.A. 92-676, eff. 7-16-02; 93-198, eff. 1-1-04.)

(225 ILCS 470/41) (from Ch. 147, par. 141)

Sec. 41. No person shall operate, upon the streets or highways of this State any vehicle tank used for commercial

purposes unless such tank either is equipped with a meter or other device for measuring deliveries from the tank or has been calibrated for capacity and sealed by the Director ~~director~~. When a vehicle tank has been calibrated for capacity by the Director ~~director~~, he shall issue to the owner or operator a certificate of calibration in which is shown the calibrated capacity of each compartment. A copy of this certificate shall accompany the vehicle tank at all times or kept on file available for examination either at the plant out of which the vehicle tank is operated or at a regional or principal Illinois office of the owner of the vehicle tank. Each compartment of a vehicle tank shall be marked with a statement of its capacity as defined by its indicator, located in a conspicuous place in letters and figures not less than one inch in height. Enforcement of this Section is reserved to the Director ~~director~~ or to the sealer in a city having a population of 200,000 or greater according to the latest official United States census.

(Source: Laws 1963, p. 3433.)

(225 ILCS 470/52) (from Ch. 147, par. 152)

Sec. 52. The Director ~~director~~ may by regulation establish a standard weight per bushel for any agricultural commodity, and any such weight per bushel shall prevail when such commodity is contracted for, bought or sold, if no special contract or written and signed agreement exists to the

contrary.

(Source: Laws 1963, p. 3433.)

(225 ILCS 470/54) (from Ch. 147, par. 154)

Sec. 54. A person who in any way hinders or obstructs the Director ~~director~~, his authorized representative, any one of the inspectors or a sealer, deputy sealer or special sealer, in the performance of his official duties is guilty of a Class B misdemeanor.

(Source: P.A. 79-551.)

(225 ILCS 470/55) (from Ch. 147, par. 155)

Sec. 55. A person who in any way impersonates the Director ~~director~~, his authorized representative, any one of the inspectors or a sealer, deputy sealer or special sealer, by the use of his seal or a counterfeit of his seal or in any other manner, is guilty of a Class A misdemeanor.

(Source: P.A. 79-551.)

(225 ILCS 470/56) (from Ch. 147, par. 156)

Sec. 56.

(1) A person who, by himself or herself or by his or her employee or agent or as the employee or agent of another person, performs any of the acts enumerated in subparagraphs (A) through (J) of this Section is guilty of a business offense and shall be fined not less than \$1,000 ~~\$500~~ for the first

offense; not less than \$1,500 on a second offense; and not less than \$2,500 for a third offense.

(A) Use or possess for the purpose of using for any commercial purpose specified in Section 10 of this Act, sell, offer, or expose for sale or hire, or possess 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 possess for the purpose of current use for any commercial purpose specified in Section 10 of this Act, a weight or measure without a seal or mark as required by Section 14 ~~or Section 43~~, unless such weight or measure has been exempted from testing by the provisions of Section 10, or by a regulation of the Director ~~director~~ issued under the authority of Section 8, 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 or she 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 or she furnishes the weight or measure by means of which the

amount of the commodity, thing or service is determined.

(G) Retain 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 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 a position which may reasonably be assumed by a customer.

(I) By himself or herself or by the person's agent, or as servant or agent of another person, fail to disclose to the Department of Agriculture any knowledge of information relating to, or observation of, any device or instrument added to or modifying any weight or measure for the purpose of selling, or offering or exposing for sale, less than the quantity represented of a commodity or calculated to falsify the weight or measure, if the person is an owner or employee of an entity involved in the installation, repair, sale, or inspection of weighing or measuring devices.

(J) Violate a provision of this Act or of the regulations promulgated pursuant to this Act for which a specific penalty has not been prescribed.

(2) A person who, by himself or herself or by the person's servant or agent, or as a servant or agent of another person,

performs any of the following acts is guilty of a Class 3 felony and subject to a fine of not less than \$1,000.00 or not more than \$10,000.00 or the total amount of any money gained for each day on which a violation has been found, whichever is greater, or by imprisonment, or both:

(A) Adds to or modifies a commercial weight or measure by the addition of a device or instrument that would allow the sale, or the offering or exposure for sale, of less than the quantity represented of a commodity or falsification of the weight or measure.

(B) Commits as a fourth or subsequent offense any of the acts listed in subsection (1) of this Section, violates a written notice from the Department, or removes a Department seal.

(Source: P.A. 85-436.)

(225 ILCS 470/56.1) (from Ch. 147, par. 156.1)

Sec. 56.1. Administrative penalties; judicial review. When an administrative hearing is held, the hearing officer, upon determination of any violation of any Section of this Act shall ~~56(1), shall refer the violation to the States Attorney's office in the county which the business is conducted for prosecution or~~ levy the following administrative monetary penalties:

(A) A penalty of \$500 ~~\$100~~ for a first violation.

(B) A penalty of \$1,500 ~~\$750~~ for a second violation at

the same location within 2 years of the first violation.

(C) A penalty of \$2,500 ~~\$1,500~~ for a third or subsequent violation at the same location within 2 years of the second violation.

The penalty so levied shall be collected by the Department. Any penalty not paid within 60 days of notice from the Department shall be submitted to the Attorney General's office for collection.

All final administrative decisions of the Department are subject to judicial review under the Administrative Review Law. The term "administrative decision" is defined as in Section 4-101 of the Code of Civil Procedure.

(Source: P.A. 88-600, eff. 9-1-94.)

Section 10. The Soil Conservation Domestic Allotment Act is amended by changing Sections 3 and 7 as follows:

(505 ILCS 125/3) (from Ch. 5, par. 138c)

Sec. 3. The Department is hereby authorized and ~~7~~ empowered and may, at its discretion, ~~directed to~~ formulate and submit to the Secretary of Agriculture, in conformity with the provisions of said Soil Conservation and Domestic Allotment Act, a State plan ~~for each year, beginning with the year 1953. It shall be the purpose of each such plan and each such plan shall be~~ designed to promote such utilization of land and such farming practices as the Department finds will tend, in conjunction

with the operation of such other plans as may be approved for other states by the Secretary of Agriculture, to preserve and improve soil fertility; to promote the economic use and conservation of land; to diminish exploitation and wasteful and unscientific use of natural soil resources; to protect rivers and waterways against the results of soil erosion and aid in flood control; and to re-establish and maintain the ratio between the purchasing power of the net income per person on farms and that of the income per person not on farms, as defined in subsection (a) of Section 7 of the Soil Conservation and Domestic Allotment Act. Each such plan may ~~shall~~ provide for adjustments and utilization of land, and in farming practices through agreements with producers or through other voluntary methods, and for benefit payments in connection therewith, and for such methods of administration not in conflict with any law of the State, and for such reports as the Secretary of Agriculture finds necessary for the effective administration of the plan, and for ascertaining whether the plan is being carried out according to its terms.

(Source: Laws 1951, p. 1680.)

(505 ILCS 125/7) (from Ch. 5, par. 138g)

Sec. 7. The Department shall have no authority to incur any obligation or liability against the State of Illinois under this Act for the expenditure of funds other than the expenditure of funds payable from the Soil Conservation Fund,

pursuant to appropriations made therefore ~~therefor~~.

(Source: Laws 1951, p. 1680.)

(505 ILCS 125/6 rep.)

Section 15. The Soil Conservation Domestic Allotment Act is amended by repealing Section 6.

Section 20. The Motor Fuel and Petroleum Standards Act is amended by changing Sections 3, 4, 4.1, 7, and 7.1 as follows:

(815 ILCS 370/3) (from Ch. 5, par. 1703)

Sec. 3. As used in this Act, unless the context otherwise requires:

(1) "ASTM" means ASTM International ~~the American Society for Testing and Materials~~, an international, nonprofit, technical, scientific and educational society devoted to the promotion of knowledge of the materials of engineering, and the standardization of specifications and methods of testing.

(2) "Motor Fuel" shall have the meaning ascribed to that term in Section 1.1 of the "Motor Fuel Tax Law", as now or hereafter amended.

(3) "Petroleum" means all illuminating oils, heating oils, LP gas, kerosene, gasoline, diesel and all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles.

(4) "Department" means the Illinois Department of Agriculture.

(5) "Person" means an individual, a corporation, company, society, association, partnership or governmental entity.

(6) "Distributor" shall have the meaning ascribed to that term in Section 1.2 of the "Motor Fuel Tax Law", as now or hereafter amended, and any person who either produces, refines, blends, transports, compounds or manufactures petroleum in this State for the purposes of resale.

(7) "Director" means the Director of the Illinois Department of Agriculture or authorized designee.

(8) "Retailer" shall have the meaning ascribed to that term in Section 2 of the "Use Tax Act", as now or hereafter amended and any person engaged in the business of selling petroleum directly to the ultimate consumer.

(9) "Co-solvent" means an alcohol that is miscible with methanol and has a molecular weight equal to or greater than that of butanol.

(Source: P.A. 86-232.)

(815 ILCS 370/4) (from Ch. 5, par. 1704)

Sec. 4. ASTM standards.

(a) All motor fuel and petroleum sold or offered for sale in the State of Illinois shall conform to the standards of this Act. The standards set forth in the Annual Book of ASTM Standards ~~(ASTM) American Society for Testing and Materials~~

Section 5, Volumes 05.01, 05.02, 05.03, 05.04 and 05.05 and supplements thereto, and revisions thereof are adopted unless modified or rejected by a regulation adopted by the Department. In addition, any advertised or labeled declarations regarding the quality of a motor fuel which are more stringent than ASTM standards shall be met.

(a-5) The quality of gasoline-oxygenate blends sold or offered for sale in this State shall meet the standards set forth in Section 2.1.1.1 or Section 2.1.1.2 of the Uniform Engine Fuels, Petroleum Products, and Automotive Lubricants Regulation as provided under the National Institute of Standards and Technology Handbook 130, and any of its subsequent supplements or revisions, except as specifically modified, amended, or rejected by regulation issued by the Director.

(b) Minimum Automotive Gasoline Octane Requirements.

All leaded and unleaded gasoline sold in this State shall meet or exceed the following minimum octane numbers:

Regular Grade 87

Midgrade or Plus 89

Premium or Super Grade 91 ~~90~~

An octane number is determined by adding the research octane number to the motor octane number and dividing by 2. $(RON + MON)/2$. In addition, the motor octane number shall not be less than 82.0. All gasoline products sold at retail shall have an octane number displayed.

(c) Each seller of a motor fuel shall notify the purchaser of the type and quantity of motor fuel purchased. For gasoline, the type shall indicate the octane number. This information shall appear on the bill of lading, manifest, or delivery ticket for the fuel. This subsection does not apply to sales at retail.

(d) All gasoline products shall meet the most recently adopted ASTM standards for spark-ignition motor fuel, and those standards adopted under the provisions of the federal Clean Air Act by the U. S. Environmental Protection Agency shall be the standards of this State in those areas in which the federal Clean Air Act fuel standards apply.

(e) All biodiesel with a numerical value of B99 or above ~~B100~~ that is sold or offered for sale in the State of Illinois shall conform to the ASTM D6751 Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels. For the purposes of this subsection (e), "Biodiesel" means a fuel that (i) is comprised of mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats and (ii) meets the requirements of the ASTM D6751 standards ~~shall have the same meaning ascribed to it as in the Illinois Renewable Fuels Development Program Act.~~

(Source: P.A. 96-528, eff. 1-1-10.)

(815 ILCS 370/4.1) (from Ch. 5, par. 1704.1)

Sec. 4.1. (a) Upon any retail motor fuel dispensing device

which is used to dispense a motor fuel containing at least 1% by volume of ethanol, of methanol, or of a combination thereof, there shall be displayed a label which identifies the maximum percentage by volume, to the nearest whole percent, of ethanol, of methanol, and of co-solvent contained in the motor fuel. Such labelling shall be done in contrasting colors with block letters at least 1/2 inch in height and 1/4 inch in width, and not more than one inch in height and 1/2 inch in width, and shall be visible to customers. The label shall be located on the front or sides of the dispenser and within the top 30 percent of the height of the dispenser. On a dual-faced dispenser, the label shall be affixed on each front or each side in accordance with these requirements. Devices used to dispense only motor fuels which contain a total of less than 1% by volume of methanol and ethanol need not be so labelled.

(a-5) (Blank).

(a-10) (Blank). ~~Upon any retail motor fuel dispensing device that is used to dispense a motor fuel containing biodiesel or biodiesel blends, the biodiesel and biodiesel blends shall be identified by the capital letter "B" followed by the numerical value representing the volume percentage of biodiesel fuel, such as B10, B20, or B100, as follows:~~

~~(1) Upon any retail motor fuel dispensing device that is used to dispense a motor fuel containing between 5% and up to and including 20% of biodiesel, there shall be displayed on each retail dispenser:~~

~~(a) the capital letter "B" followed by the numerical value representing the maximum volume percentage of biodiesel fuel and ending with "biodiesel blend", such as B10 biodiesel fuel blend or B20 biodiesel fuel blend; or~~

~~(b) the phrase "biodiesel blend between 5% and 20%" or similar words.~~

~~(2) Upon any retail motor fuel dispensing device that is used to dispense a motor fuel containing more than 20% of biodiesel, there shall be displayed on each retail dispenser the capital letter "B" followed by the numerical value representing the volume percentage of biodiesel fuel and ending with either "biodiesel" or "biodiesel blend", such as B100 biodiesel or B60 biodiesel blend.~~

~~(3) The label shall be done in contrasting colors with block letters at least 1/2 inch in height and 1/4 inch in width, and not more than one inch in height and 1/2 inch in width, and shall be visible to customers. The label shall be located on the front or sides of the dispenser and within the top 30% of the height of the dispenser. On a dual-faced dispenser, the label shall be affixed on each front or each side in accordance with these requirements. Devices used to dispense only motor fuels that contain a total of 5% or less by volume of biodiesel need not be labeled.~~

(b) Each seller of a motor fuel which contains methanol,

ethanol, or biodiesel shall notify the purchaser thereof of the percentage by volume of ethanol, of methanol, of biodiesel, and of co-solvent which have been added to such motor fuel, and this information shall appear on the bill of lading, manifest or delivery ticket for such motor fuel. However, this subsection (b) shall not apply to sales at retail.

(c) No motor fuel, whether or not it contains any lead or lead compounds, may contain more ethanol or methanol than is permitted, or contain less co-solvent than is required, by the United States Environmental Protection Agency for unleaded motor fuels under Section 211(f) of the federal Clean Air Act.

(d) All motor fuel sold or offered for sale by the distributor shall contain the percentage and type of alcohol as stated on the bill of lading, manifest or delivery ticket.

(e) (Blank).

(f) Nothing in this Section shall be construed to require or impose an obligation upon the owner or operator of a retail motor fuel dispensing station, facility, or device to perform a test on or measurement of a shipment of motor fuel received to determine the specific content of ethanol, methanol, or biodiesel.

(Source: P.A. 95-381, eff. 7-1-08.)

(815 ILCS 370/7) (from Ch. 5, par. 1707)

Sec. 7. Administrative hearing and penalties. When an administrative hearing is held, the hearing officer, upon

determination of a violation of this Act or rules, other than violation of subsection (b) of Section 7.1, shall:

(a) Levy the following administrative monetary penalties:

(1) \$500 ~~\$100~~ for a first violation;

(2) \$1,500 ~~\$750~~ for a second violation within 2 years of the first violation; and

(3) \$2,500 ~~\$1500~~ for a third or subsequent violation within 2 years of the second violation; or

(b) (Blank). ~~refer the violations to the States Attorney's Office in the county where the violation occurred for prosecution.~~

Any penalty levied shall be collected by the Department and paid into the Motor Fuel and Petroleum Standards Fund. Monetary penalties not paid within 60 days of notice from the Department shall be submitted to the Attorney General's Office for collection.

All decisions and actions of the Department are subject to the Illinois Administrative Procedure Act and the Department's Administrative Rules which pertain to administrative hearings, petitions, proceedings, contested cases, declaratory rulings and availability of Department files for public access.

All final administrative decisions of the Department shall be subject to judicial review pursuant to the provisions of the Administrative Review Law, and all amendments and modifications thereof, and the rules adopted pursuant thereto. The term "administrative decision" is defined in Section 3-101

of the Code of Civil Procedure.

(Source: P.A. 88-582, eff. 1-1-95.)

(815 ILCS 370/7.1)

Sec. 7.1. Fuel rating ~~Octane~~ display standards; administrative penalty.

(a) Every retailer of motor fuel must display the octane number or fuel rating of the fuel being dispensed on each motor fuel device that is dispensing a motor fuel ~~gasoline~~ product. The octane number or fuel rating shall be displayed on the fuel dispensing device in a manner consistent with regulations promulgated by the Federal Trade Commission in 16 CFR part 306. It is a violation of this Section, (1) ~~Sec.~~ to display an octane number that is greater than the octane number of the gasoline being dispensed, (2) to display a fuel rating that is not consistent with the percentage by volume of the principal component of the alternative liquid automotive fuel being dispensed, or (3) to display a fuel rating that is not consistent with the percentage of biodiesel or biomass-based diesel of the biodiesel blend being dispensed.

(b) A hearing officer that, after an administrative hearing held in accordance with the provisions of Section 7, determines that a violation of this Section has been committed shall impose a monetary penalty in accordance with the following schedule:

(1) For a first time violation if the actual octane

number is found by the petroleum laboratory to be lower than the posted octane number by:

(A) at least 0.6 ~~0.8~~, but not more than 1.5 ~~2.0~~ octane numbers, \$500 ~~\$100~~;

(B) (blank) ~~at least 2.1, but not more than 3.0 octane numbers, \$200~~;

(C) (blank) ~~at least 3.1, but not more than 4.0 octane numbers, \$300~~;

(D) (blank) ~~at least 4.1, but not more than 5.0 octane numbers, \$400~~;

(E) (blank) ~~at least 5.1, but not more than 6.0 octane numbers, \$500~~;

(F) more than 1.5 ~~6.0~~ octane numbers, \$1,000.

(2) For a second violation, at the same location under the same ownership, within 2 years of the first violation if the actual octane number is found by the petroleum testing laboratory to be lower than the posted octane number by:

(A) at least 0.6 ~~0.8~~, but not more than 1.5 ~~2.0~~ octane numbers, \$1,000 ~~\$200~~;

(B) (blank) ~~at least 2.1, but not more than 3.0 octane numbers, \$400~~;

(C) (blank) ~~at least 3.1, but not more than 4.0 octane numbers, \$600~~;

(D) (blank) ~~at least 4.1, but not more than 5.0 octane numbers, \$800~~;

(E) (blank) ~~at least 5.1, but not more than 6.0~~
~~octane numbers, \$1,000;~~

(F) more than 1.5 ~~6.0~~ octane numbers, \$2,000.

(3) For a third or subsequent violation, at the same location under the same ownership, within 2 years of the second violation if the actual octane number is found by the petroleum testing laboratory to be lower than the posted octane number by:

(A) at least 0.6 ~~0.8~~, but not more than 1.5 ~~2.0~~
octane numbers, \$2,000 ~~\$400;~~

(B) (blank) ~~at least 2.1, but not more than 3.0~~
~~octane numbers, \$800;~~

(C) (blank) ~~at least 3.1, but not more than 4.0~~
~~octane numbers, \$1,200;~~

(D) (blank) ~~at least 4.1, but not more than 5.0~~
~~octane numbers, \$1,600;~~

(E) (blank) ~~at least 5.1, but not more than 6.0~~
~~octane numbers, \$2,000;~~

(F) more than 1.5 ~~6.0~~ octane numbers, \$4,000.

(c) Any penalty levied under this Section shall be collected and deposited in the manner provided for penalties collected under Section 7. Actions and decisions of the Department under this Section are subject to the administrative procedures and review authorized under Section 7.

(Source: P.A. 88-582, eff. 1-1-95.)

Section 99. Effective date. This Act takes effect upon

Public Act 096-1333

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becoming law.