

(December 13, 1940)

THE MODEL STATE LAW ON WEIGHTS AND MEASURES

Adopted by the National Conference on Weights and Measures
and
Recommended by the National Bureau of Standards
for Enactment by the States

(Includes amendments adopted in 1936 and 1940)

FORMS OF THE MODEL LAW

The Model State Law on Weights and Measures is presented in three forms; the basic provisions of the three forms are the same, the variations occurring by reason of the methods of enforcement involved. A brief description of each of the three forms of the law, and a statement of the local conditions under which each form will be found peculiarly applicable, are given below.

Form No. 1. -- This form provides that the entire weights and measures inspection system shall be in the hands of a State department, and that the weights and measures law shall be wholly enforced by State personnel. This form is intended for States having a comparatively small population per unit of area and few or no large centers of population; this form is also intended for those States in which it is believed that the law can be most competently enforced by a centralization of authority.

Form No. 2. -- This form provides that the State shall take entire charge of the enforcement of the law in those sections of the State in which the population per unit of area is so small that enforcement by local authority will not be fully efficient, and that in those cities and counties of the State in which the populations are large enough to justify it, local inspection services under the supervisory authority of the State shall assume enforcement of the law. This form is intended for those States in which parts of the territory are thickly populated and other parts are only thinly populated.

Form No. 3. -- This form provides for the enforcement of the law by local inspection services in each city and each county, all under the general supervisory control of a State department of weights and measures. This form is intended for those States in which there is a large population per unit of area and but few or no sections which are thinly populated.

TEXTS OF THE MODEL LAW

The text of each form of the Model Law is given in full below.

Model Law on Weights and Measures Form No. 1

SECTION 1. The weights and measures received from the United States under joint resolutions of Congress approved June 14, 1836, and July 27, 1866, and/or such new weights and measures as shall be received from the United States as standard weights and measures in addition thereto or in renewal thereof, and/or such weights and measures in conformity therewith as shall be supplied by the State shall, when the same shall have been certified by the National Bureau of Standards, be the State standards of weights and measures.

SEC. 2. In addition to the State standards of weights and measures, provided for above, there shall be supplied by the State at least one complete set of copies of these, to be kept at all times in the office of the State superintendent (commissioner), and to be known as office standards; and such other weights, measures, and apparatus as may be found necessary to carry out the provisions of this act, to be known as working standards. Such weights, measures, and apparatus shall be verified by the State superintendent (commissioner), or his deputy or inspectors, at his direction, upon their initial receipt and at least once in each year thereafter, the office standards by direct comparison with the State standards, the working standards by comparison with the office standards. When found accurate upon these tests the office and working standards shall be sealed by stamping on them the letter "--" and, in the case of working standards, the last two figures of the year, with seals which the State superintendent (commissioner) shall have and keep for that purpose. The office or working standards shall be used in making all comparisons of weights, measures, and weighing or measuring devices submitted for test in the office of the superintendent (commissioner) and the State standards shall be used only in verifying the office standards and for scientific purposes.

SEC. 3. There shall be a State superintendent (commissioner) of weights and measures, who shall be appointed by the governor, by and with the advice and consent of the senate. Such superintendent (commissioner) shall be appointed for a term of five years, and shall receive a salary of \$----- a year. There shall be a deputy superintendent (commissioner) of weights and measures and inspectors of weights and measures, to be appointed from eligible lists prepared by the civil-service board and under the rules of said board. (In the absence of a civil-service board in the State, substitute for the preceding sentence the following: There shall be a deputy superintendent (commissioner) of weights and measures and inspectors of weights and measures, to be appointed by the superintendent (commissioner) of weights and measures and to hold office during good behavior, and they shall not be removed, discharged, or reduced in pay or position except for inefficiency, incapacity, conduct unbecoming an employee, or other just cause, and until they shall have been furnished with a written statement of the reasons for any such contemplated removal, discharge, or reduction, and shall have been given a reasonable time to make written answer thereto; nor shall such removal, discharge, or reduction be made until the charge or charges shall have been examined into and found true in fact by the governor or a committee which he may appoint for this purpose, at a hearing, upon reasonable notice to the person charged, at which time he may be represented by counsel and offer testimony of witnesses and any other evidence in his own behalf.) The superintendent (commissioner) of weights and measures shall be allowed for salaries for the deputy superintendent (commissioner) of weights and measures and inspectors of weights and measures, and for clerical services and traveling and contingent expenses for himself, his deputy, and inspectors, such sums as shall be appropriated by the legislature.

SEC. 4. The State superintendent (commissioner) of weights and measures shall forthwith, on his appointment, give a bond in the penal sum of \$5,000, with sureties, to be approved by the secretary of state (attorney general) for the faithful performance of the duties of his office and for the safe-keeping of the standards intrusted to his care and for the surrender thereof immediately to his successor in office or to the person appointed by the governor to receive them. The deputy superintendent (commissioner) of weights and measures and each inspector of weights and measures shall forthwith upon his appointment give a bond in the penal sum of \$1,000, with sureties, to be approved by the secretary of

state (attorney general), for the faithful performance of the duties of his office and for the safe-keeping of any apparatus intrusted to his care.

SEC. 5. The superintendent (commissioner) of weights and measures shall take charge of the standards adopted by this act as the standards of the State, and cause them to be kept in a fireproof building belonging to the State (or in a safe and suitable place in the office of the superintendent (commissioner)), from which they shall not be removed except for repairs or for certification, and he shall take all other necessary precautions for their safe-keeping. He shall maintain the State standards in good order and shall submit them at least once in ten years to the National Bureau of Standards for certification. He shall keep a complete record of the standards, balances, and other apparatus belonging to the State and take a receipt for same from his successor in office. He shall annually, on the first day of -----, make to the governor a report of all work done by his office.

SEC. 6. The State superintendent (commissioner) of weights and measures shall issue from time to time regulations for the enforcement of the provisions of this act. The said regulations may include specifications and tolerances for all weights, measures, and weighing and measuring devices of the character of those specified in Section 8, which shall be designed to eliminate from use, without prejudice to apparatus which conforms as closely as practicable to the official standards, those which are not accurate, which are of such construction that they are faulty -- that is, which are not reasonably permanent in their adjustment or which will not repeat their indications correctly -- or which facilitate the perpetration of fraud. 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. 7. The State superintendent (commissioner) of weights and measures shall have and keep a general supervision of the weights and measures, and weighing or measuring devices offered for sale, sold, or in use in the State. He, or his deputy, or inspectors, at his direction, shall, upon the written request of any person, firm, or corporation, or educational institution in the State, test or calibrate weights, measures, and weighing or measuring devices used as standards in the State. He, or his deputy, or inspectors, at his direction, shall at least once annually test all scales, weights, and measures used in checking the receipts or disburse-

ments of supplies in every institution for the maintenance of which moneys are appropriated by the legislature, and he shall report in writing his findings to the supervisory board and to the executive officer of the institution concerned, and, at the request of such board or executive officer, the superintendent (commissioner) of weights and measures shall appoint in writing one or more employees then in the actual service of the institution who shall act as special deputies for the purpose of checking the receipts or disbursements of supplies.

SEC. 8. When not otherwise provided by law the State superintendent (commissioner) shall have the power, and it shall be his duty to inspect, test, try, and ascertain if they are correct, all weights, measures, and weighing or measuring devices kept, offered, or exposed for sale, sold, or used or employed in proving the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption purchased or offered or submitted for sale, hire, or award, or in computing any charge for services rendered on the basis of weight or measure, or in determining weight or measure when a charge is made for such determination; and he shall have the power to and shall from time to time weigh or measure and inspect packages or amounts of commodities of whatsoever kind kept for the purpose of sale, offered or exposed for sale, or sold or in the process of delivery, in order to determine whether the same contain the amounts represented, and whether they be offered for sale or sold in a manner in accordance with law. He shall at least twice each year and as much oftener as he may deem necessary see that all weights, measures, and weighing or measuring devices used are correct. He may for the purpose above mentioned, and in the general performance of his official duties, enter and go into or upon, and without formal warrant, any stand, place, building, or premises, or stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon, or any person whatsoever, and require him, if necessary, to proceed to some place which the State superintendent (commissioner) may specify, for the purpose of making the proper tests. Whenever the State superintendent (commissioner) finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted.

SEC. 9. Whenever the State superintendent (commissioner) compares weights, measures, or weighing or measuring devices and finds that they correspond or causes them to correspond with the standards in his possession, he shall seal or mark such weights, measures, or weighing or measuring devices with appropriate devices.

SEC. 10. The State superintendent (commissioner) shall condemn and seize and may destroy incorrect weights, measures, or weighing or measuring devices which, in his best judgment, are not susceptible of satisfactory repair; but such as are incorrect and yet, in his best judgment, may be repaired, he shall mark or tag as "Condemned for repairs." The owners or users of any weights, measures, or weighing or measuring devices of which such disposition is made shall have the same repaired and corrected within such reasonable period as may be specified by the superintendent (commissioner), and they may neither use nor dispose of the same in any way, but shall hold the same at the disposal of the superintendent (commissioner). Any weights, measures, or weighing or measuring devices which have been "condemned for repairs," and have not been repaired as required above, shall be confiscated by the superintendent (commissioner).

SEC. 11. The powers and duties given to and imposed upon the State superintendent (commissioner) of weights and measures by sections eight, nine, and ten are hereby given to and imposed upon his deputy and inspectors also, when acting under his instructions and at his direction.

SEC. 12. The superintendent (commissioner) of weights and measures, his deputy and inspectors, are hereby made special policemen, and are authorized and empowered to arrest, without formal warrant, any violator of the statutes in relation to weights and measures, and to seize for use as evidence, without formal warrant, any false or unsealed weight, measure, or weighing or measuring device or package or amount of commodity found to be used, retained, or offered or exposed for sale, or sold in violation of law.

SEC. 13. Any person who shall hinder or obstruct in any way the superintendent (commissioner) of weights and measures, his deputy, or inspectors, in the performance of his official duties shall be guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be punished by a fine of not less than \$20 or more than \$200, or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment.

SEC. 14. Any person who shall impersonate in any way the superintendent (commissioner) of weights and measures, his deputy, or inspectors, by the use of his seal or counterfeit of his seal, or otherwise, shall be guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not less than \$100 or more than \$500, or by imprisonment for not more than one year, or by both such fine and imprisonment.

SEC. 15. It shall be unlawful to sell, except for immediate consumption on the premises, liquid commodities in any other manner than by weight or liquid measure, or commodities not liquid in any other manner than by measure of length, by weight, or by numerical count: Provided, however, That nothing in this section shall be construed to prevent the sale of fruits, vegetables, and other dry commodities in the standard barrel provided for in section 24 or of berries and small fruits in boxes as provided for in section 25; or of vegetables or fruits usually sold by the head or bunch in this manner: Provided further, That nothing in this section shall be construed to apply to foodstuffs put up in original packages.

For the purposes of this section the term "original package" shall be construed to include a commodity in a package, carton, case, can, barrel, bottle, box, phial, or other receptacle, or in coverings or wrappings of any kind, put up by the manufacturer, which may be labeled, branded, or stenciled, or otherwise marked, or which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words "original package" shall be construed to include both the wholesale and the retail package.

For the purposes of this section the term "commodities not liquid" shall be construed to include goods, wares, and merchandise, which are not in liquid form and which have heretofore been sold by measure of length, by weight, by measure of capacity, or by numerical count, or which are susceptible of sale in any of these ways.

SEC. 16. It shall be unlawful to sell or offer to sell any coal, coke, or charcoal in any other manner than by weight. It shall be unlawful for any person to deliver any coal, coke, or charcoal without each individual delivery being accompanied by duplicate delivery tickets on which shall be in ink or other indelible substance, distinctly expressed in pounds, the net weight or weights of coal, coke, or charcoal comprising the delivery, and the gross and tare weights from which each net weight shown is computed, with the name of the purchaser thereof, and the name of the dealer from whom purchased. One of these tickets shall be surrendered to the State superintendent (commissioner), his deputy, or inspectors, upon his demand for his inspection and this ticket or a weight slip issued by him when he desires to retain the original shall be delivered to the said purchaser of said coal, coke, or charcoal, or his agent or representative at the time of the delivery of the fuel; and the other ticket shall be retained by the seller of the fuel. When the buyer carries away the purchase, a delivery ticket showing the actual number of pounds delivered to him must be given to him at the time the sale is made.

SEC. 17. It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity in package form unless the net quantity of the contents be plainly and conspicuously marked on the outside of the package, in terms of weight, measure, or numerical count: Provided, however, That reasonable variations or tolerances shall be permitted, and that these reasonable variations or tolerances and also exemptions as to small packages shall be established by rules and regulations made by the superintendent (commissioner) of weights and measures: And provided further, That this section shall not be construed to apply to those commodities in package form, the manner of sale of which is specifically regulated by the provisions of other sections of this act.

The words "in package form" as used in this act shall be construed to include a commodity in a package, carton, case, can, box, barrel, bottle, phial, or other receptacle, or in coverings or wrappings of any kind, put up by the manufacturer, or, when put up prior to the order of the commodity, by the vendor, which may be labeled, branded, or stenciled, or otherwise marked, or which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words "in package form" shall be construed to include both the wholesale and the retail package.

SEC. 18. It shall be unlawful to keep for the purpose of sale offer or expose for sale, or sell any commodity in package form if its container is so made, formed, or filled, or if it is so wrapped, as to mislead the purchaser as to the quantity of the contents; or if the contents of its container fall below the standard of fill prescribed by regulations promulgated as provided in this section. For the effectuation of the purposes of this section the superintendent (commissioner) of weights and measures is hereby authorized to promulgate regulations fixing and establishing for any commodity in package form a reasonable standard of fill of container.

SEC. 19. It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity composed in whole or in part of cotton, wool, linen, or silk, or any other textile material on a spool or similar holder, or in a container or band, or in a bolt or roll, or in a ball, coil, or skein, or in any similar manner, unless the net amount of the commodity in terms of weight or measure shall be definitely, plainly, and conspicuously marked on the principal label, if there be such a label; otherwise on a wrapping, band, or tag attached thereto.

The words "spool or similar holder, container or band, bolt or roll, or ball, coil, or skein" shall be construed to include the spool or similar holder, container or band, bolt or roll, or ball, coil, or skein put up by the manufacturer; or when put up prior to the order of the commodity, by the vendor. It shall be held to include both the wholesale and the retail package.

SEC. 20. It shall be unlawful for any person to sell, or offer to sell, any butter or renovated or process butter or oleomargarine in any other manner than by weight. It shall be unlawful for any person to put up, pack, or keep for the purpose of sale, offer or expose for sale, or sell any butter or renovated or process butter, or oleomargarine, in the form of prints, bricks, or rolls, in any other than the following sizes, to wit, one-quarter pound, one-half pound, one pound, one and one-half pounds, or multiples of one pound. Each print, brick, or roll shall bear a definite, plain, and conspicuous statement of its true net weight, on the principal label, where there be such a label, otherwise on the outside wrapper thereof; such statement shall be in gothic type not less than one-quarter inch square.

The prints, bricks, or rolls referred to in this section shall be construed to include those prints, bricks, or rolls put up by the manufacturer or producer; or when put up prior to the order of the commodity, by the vendor.

SEC. 21. It shall be unlawful to sell, or offer to sell, except for immediate consumption on the premises, any meat, meat products, or poultry in any other manner than by weight.

SEC. 22. The standard loaf of bread shall weigh one pound, avoirdupois weight. All bread manufactured, procured, made, or kept for the purpose of sale, offered or exposed for sale, or sold, in the form of loaves, shall be one of the following standard weights and no other, namely, one pound, one-half pound, one and one-half pounds, or multiples of one pound, avoirdupois weight: Provided, however, That rules and regulations for the enforcement of the provisions of this section, not inconsistent herewith, shall be made by the superintendent (commissioner), and such rules and regulations shall include reasonable variations or tolerances, in excess only, or in excess and in deficiency, which may be allowed: And provided further, That the provisions of this section shall not apply to biscuits, buns, crackers, rolls, or to what is commonly known as "stale bread" and sold as such, in case the seller shall at the time of sale expressly state to the buyer that the bread so sold is "stale bread." When twin or multiple loaves are baked, the weights specified in this section shall apply to each unit of the twin or multiple loaf.

It shall be unlawful for any person to manufacture, make, procure, or keep for the purpose of sale, offer or expose for sale, or sell, bread in the form of loaves, which is not of one of the weights specified in this section within such variations or tolerances as may be fixed by the superintendent (commissioner) as provided herein. For the purposes of this section, bread shall be deemed to be in the form of loaves whether or not the loaf is wrapped, and whether or not the loaf is sliced.

SEC. 23. Bottles used for the sale of milk or cream shall be of the capacity of one-half gallon, (three pints,)* one quart, one pint, one-half pint, and one gill. Bottles used for the sale of milk or cream shall have clearly blown or otherwise permanently marked in the side of the bottle the capacity of the bottle and the word "Sealed"; and in the side or bottom of the bottle the name, initials, or trade-mark of the manufacturer and a designating number, which designating number shall be different for each manufacturer and may be used in identifying the bottles. The designating number shall be furnished by the State superintendent (commissioner) of weights and measures upon application by the manufacturer, and upon the filing by the manufacturer of a bond in the sum of \$1,000, with sureties, to be approved by the secretary of state (attorney general) conditioned upon conformance with the requirements of this section. A record of the bonds furnished and the designating numbers and to whom furnished shall be kept in the office of the superintendent (commissioner) of weights and measures.

Any manufacturer who sells or offers to sell milk or cream bottles to be used in this State that do not comply as to size and markings with the provisions of this section shall suffer a penalty of \$500, to be recovered by the attorney general in an action against the offender's bondsmen to be brought in the name of the people of the State. Any dealer who uses, for the purpose of selling milk or cream, bottles purchased after this law takes effect that do not comply with the requirements of this section as to markings and capacity shall be deemed guilty of using a false or insufficient measure.

The superintendent (commissioner) of weights and measures is not required to seal bottles for milk or cream marked as in this section provided, but he shall have the power to and shall from time to time make tests on individual bottles used by the various firms in the State in order to ascertain if the above provisions are being complied with.

* It is recommended that the words "three pints," be deleted, thus bringing the requirements of the section into conformance with those of the current National Conference specifications for Milk Bottles.

SEC. 24. The standard barrel for fruits, vegetables, and other dry commodities other than cranberries shall be of the following dimensions when measured without distention of its parts: Length of staves, twenty-eight and one-half inches; diameter of heads, seventeen and one-eighth inches; distance between heads, twenty-six inches; circumference of bulge, sixty-four inches, outside measurement; and the thickness of staves not greater than four-tenths of an inch: Provided, That any barrel of a different form having a capacity of seven thousand and fifty-six cubic inches shall be a standard barrel. The standard barrel for cranberries shall be of the following dimensions when measured without distention of its parts; Length of staves, twenty-eight and one-half inches; diameter of heads, sixteen and one-fourth inches; distance between heads, twenty-five and one-fourth inches; circumference of bulge, fifty-eight and one-half inches, outside measurement; and the thickness of staves not greater than four-tenths of an inch.

It shall be unlawful for any person to offer or expose for sale, sell, or ship any other barrels for fruits, vegetables, or other dry commodities, or to offer or expose for sale, sell, or ship any fruits, vegetables, or other dry commodities in other barrels than the standard barrels as defined in this section, or subdivisions thereof known as the third, half, or three-quarters barrel: Provided, however, That nothing in this section shall apply to barrels used in packing or shipping commodities sold exclusively by weight or numerical count: And provided further, That no barrel shall be deemed below standard within the meaning of this section when shipped to any foreign country and constructed according to the specifications or directions of the foreign purchaser if not constructed in conflict with the laws of the foreign country to which the same is intended to be shipped.

SEC. 25. It shall be unlawful to sell or offer to sell any berries or small fruits in any other manner than by weight, or in the containers described in this section. It shall be unlawful to procure or keep for the purpose of sale, offer or expose for sale, sell, or give away baskets or other open containers for berries or small fruits, holding one quart or less, or to procure or keep for the purpose of sale, offer or expose for sale, or sell berries or small fruits in baskets or other open containers, holding one quart or less, of any other than the following capacities, when level full: One quart, one pint, or one-half pint, standard dry measure.

SEC. 26. The term "gallon" shall be understood to mean a unit of 231 cubic inches, of which the liquid quart, liquid pint, and gill are, respectively, the one-quarter, the one-eighth, and the one-thirty-second parts. The term "bushel," when used in connection with dry measures and standard containers, shall be understood to mean a unit of 2150.42 cubic inches, of which the dry quart and dry pint, respectively, are the one-thirty-second and the one-sixty-fourth parts. The term "barrel," when used in connection with flour, shall be understood to mean a unit of 196 pounds, avoirdupois weight, and fractional parts of a barrel shall be understood to mean like fractional parts of 196 pounds. The term "barrel," when used in connection with beer, ale, porter, and other similar fermented liquor, shall be understood to mean a unit of 31 gallons, and fractional parts of a barrel shall be understood to mean like fractional parts of 31 gallons. The term "ton" shall be understood to mean a unit of 2,000 pounds, avoirdupois weight. The term "cord," when used in connection with wood intended for fuel purposes, shall be understood to mean the amount of wood which is contained in a space of 128 cubic feet, when the wood is ranked and well stowed and one-half the kerf of the wood is included. All contracts concerning the sale of goods shall be construed in accordance with the provisions of this section.

SEC. 27. It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell wheat flour in packages which do not conform to one of the following weights: 196 pounds, 98 pounds, 49 pounds, 24 1/2 pounds, 12 1/4 pounds, 6 pounds, 5 pounds, 4 pounds, 3 pounds, 2 pounds, 1 pound, avoirdupois weight.

SEC. 28. It shall be unlawful to misrepresent the price of a commodity, thing, or service sold or offered or exposed for sale, or to represent the price or the quantity of any commodity, thing, or service sold or offered or exposed for sale in any manner calculated or tending to mislead or deceive an actual or prospective customer.

SEC. 29. Whenever any commodity is sold on a basis of weight, it shall be unlawful to employ any other weight in such sale than the net weight of the commodity; and all contracts concerning goods sold on a basis of weight shall be understood and construed accordingly. Whenever the weight of a commodity is mentioned in this act, it shall be understood and construed to mean the net weight of the commodity.

SEC. 30. Any person who, by himself or by his servant or agent, or as the servant or agent of another person, shall offer or expose for sale, sell, use in the buying or selling of any commodity or thing, or for hire or award, or in the computation of any charge for services rendered on the basis of weight or measure, or in the determination of weight or measure when a charge is made for such determination, or retain in his possession, a false weight or measure or weighing or measuring device, or any weight or measure or weighing or measuring device which has not been sealed by the State superintendent (commissioner), or his deputy or inspectors, at his direction, within one year; or who shall dispose of any condemned weight, measure, or weighing or measuring device contrary to law, or remove any tag placed thereon by the State superintendent (commissioner), or his deputy or inspectors, at his direction; or who shall sell or offer or expose for sale less than the quantity he represents of any commodity, thing, or service, or shall take or attempt to take more than the quantity he represents, when, as the buyer, he furnishes the weight, measure, or weighing or measuring device by means of which the amount of commodity, thing, or service is determined; or who shall keep for the purpose of sale, offer or expose for sale, or sell any commodity in a manner contrary to law; or who shall use in retail trade, except in the preparation of packages put up in advance of sale, a weighing or measuring device which 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; or who shall violate any provision of this act for which a specific penalty has not been provided, or who shall sell or offer for sale, or use or have in his possession for the purpose of selling or using, any device or instrument to be used to or calculated to falsify any weight or measure, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than \$20 or more than \$200, or by imprisonment for not more than three months, or by both such fine and imprisonment, upon a first conviction in any court of competent jurisdiction; and upon a second or subsequent conviction in any court of competent jurisdiction he shall be punished by a fine of not less than \$50 or more than \$500, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

SEC. 31. The word "person" as used in this act shall be construed to import both the plural and singular, as the case demands, and shall include individuals, partnerships, corporations, companies, societies, and associations.

The words "weights, measures, or (and) weighing or (and) measuring devices," as used in this act, shall be construed to include all weights, scales, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any or all such instruments.

The words "sell" or "sale" as used in this act, shall be construed to include barter and exchange.

SEC. 32. 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.

Model Law on Weights and Measures
Form No. 2

SECTION 1. The weights and measures received from the United States under joint resolutions of Congress approved June 14, 1836, and July 27, 1866, and/or such new weights and measures as shall be received from the United States as standard weights and measures in addition thereto or in renewal thereof, and/or such weights and measures in conformity therewith as shall be supplied by the State shall, when the same shall have been certified by the National Bureau of Standards, be the State standards of weights and measures.

SEC. 2. In addition to the State standards of weights and measures, provided for above, there shall be supplied by the State at least one complete set of copies of these, to be kept at all times in the office of the State superintendent (commissioner), and to be known as office standards; and such other weights, measures, and apparatus as may be found necessary to carry out the provisions of this act, to be known as working standards. Such weights, measures, and apparatus shall be verified by the State superintendent (commissioner), or his deputy or inspectors, at his direction, upon their initial receipt and at least once in each year thereafter, the office standards by direct comparison with the State standards, the working standards by comparison with the office standards. When found accurate upon these tests the office and working standards shall be sealed by stamping on them the letter "--" and, in the case of working standards, the last two figures of the year, with seals which the State superintendent (commissioner) shall have and keep for that purpose. The office or working standards shall be used in making all comparisons of weights, measures, and weighing or measuring devices submitted for test in the office of the superintendent (commissioner) and the State standards shall be used only in verifying the office standards and for scientific purposes.

SEC. 3. There shall be a State superintendent (commissioner) of weights and measures, who shall be appointed by the governor, by and with the advice and consent of the senate. Such superintendent (commissioner) shall be appointed for a term of five years, and shall receive a salary of \$---- a year. There shall be a deputy superintendent (commissioner) of weights and measures and inspectors of weights and measures, to be appointed from eligible lists prepared by the civil-service board and under the rules of said board. (In the absence of a civil-service board in the State, substitute for the preceding sentence the following: There shall be a deputy

superintendent (commissioner) of weights and measures and inspectors of weights and measures, to be appointed by the superintendent (commissioner) of weights and measures and to hold office during good behavior, and they shall not be removed, discharged, or reduced in pay or position except for inefficiency, incapacity, conduct unbecoming an employee, or other just cause, and until they shall have been furnished with a written statement of the reasons for any such contemplated removal, discharge, or reduction, and shall have been given a reasonable time to make written answer thereto; nor shall such removal, discharge, or reduction be made until the charge or charges shall have been examined into and found true in fact by the governor or a committee which he may appoint for this purpose, at a hearing, upon reasonable notice to the person charged, at which time he may be represented by counsel and offer testimony of witnesses and any other evidence in his own behalf.) The superintendent (commissioner) of weights and measures shall be allowed for salaries for the deputy superintendent (commissioner) of weights and measures and inspectors of weights and measures, and for clerical services and traveling and contingent expenses for himself, his deputy, and inspectors, such sums as shall be appropriated by the legislature.

SEC. 4. The State superintendent (commissioner) of weights and measures shall forthwith, on his appointment, give a bond in the penal sum of \$5,000, with sureties, to be approved by the secretary of state (attorney general) for the faithful performance of the duties of his office and for the safe-keeping of the standards intrusted to his care and for the surrender thereof immediately to his successor in office or to the person appointed by the governor to receive them. The deputy superintendent (commissioner) of weights and measures and each inspector of weights and measures shall forthwith upon his appointment give a bond in the penal sum of \$1,000, with sureties, to be approved by the secretary of state (attorney general), for the faithful performance of the duties of his office and for the safe-keeping of any apparatus intrusted to his care.

SEC. 5. The superintendent (commissioner) of weights and measures shall take charge of the standards adopted by this act as the standards of the State, and cause them to be kept in a fireproof building belonging to the State (or in a safe and suitable place in the office of the superintendent (commissioner)), from which they shall not be removed except for repairs or for certification, and he shall take all other necessary precautions for their safe-keeping. He shall maintain the State standards in good order and shall submit them

at least once in ten years to the National Bureau of Standards for certification. He shall keep a complete record of the standards, balances, and other apparatus belonging to the State and take a receipt for same from his successor in office. He shall annually, on the first day of ----, make to the governor a report of all work done by his office.

SEC. 6. The superintendent (commissioner) of weights and measures, or his deputy, or inspectors, at his direction, shall at least once in five years try and prove by the office standards all standard weights, measures, and other apparatus which may belong to any county or city, required to appoint a sealer and purchase and keep standards of weights and measures by the provisions of this act, and shall seal such when found to be accurate by stamping on them the letter "--" and the last two figures of the year with seals which he shall have and keep for that purpose.

The State superintendent (commissioner), or his deputy, or inspectors, at his direction, shall inspect all standard weights, measures, and other apparatus used by such counties and cities at least once in two years, and shall keep a record of the same. He, or his deputy, or inspectors, at his direction, shall at least once in two years visit these cities and counties for this purpose and in order to inspect the work of the local sealers, and in the performance of such duties they may inspect the weights, measures, balances, or any other weighing or measuring devices of any person, firm, or corporation, and shall have the same powers as the local sealer of weights and measures. The superintendent (commissioner) shall issue from time to time regulations for the guidance of county and city sealers, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. The said regulations may include specifications and tolerances for all weights, measures, and weighing and measuring devices of the character of those specified in Section 3, which shall be designed to eliminate from use, without prejudice to apparatus which conforms as closely as practicable to the official standards, those which are not accurate, which are of such construction that they are faulty -- that is, which are not reasonably permanent in their adjustment or which will not repeat their indications correctly -- or which facilitate the perpetration of fraud. 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. 7. The State superintendent (commissioner) of weights and measures shall have and keep a general supervision of the weights and measures, and weighing or measuring devices offered for sale, sold, or in use in the State. He, or his deputy, or inspectors, at his direction, shall, upon the written request of any person, firm, or corporation, or educational institution in the State, test or calibrate weights, measures, and weighing or measuring devices used as standards in the State. He, or his deputy, or inspectors, at his direction, shall at least once annually test all scales, weights, and measures used in checking the receipts or disbursements of supplies in every institution for the maintenance of which moneys are appropriated by the legislature, and he shall report in writing his findings to the supervisory board and to the executive officer of the institution concerned, and, at the request of such board or executive officer, the superintendent (commissioner) of weights and measures shall appoint in writing one or more employees then in the actual service of the institution who shall act as special deputies for the purpose of checking the receipts or disbursements of supplies.

SEC. 8. When not otherwise provided by law the State superintendent (commissioner) shall have the power, and it shall be his duty in those parts of the State in which a city or county sealer is not required to be appointed by the provisions of this act, to inspect, test, try, and ascertain if they are correct, all weights, measures, and weighing or measuring devices kept, offered, or exposed for sale, sold, or used or employed in proving the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption purchased or offered or submitted for sale, hire, or award, or in computing any charge for services rendered on the basis of weight or measure, or in determining weight or measure when a charge is made for such determination; and he shall have the power to and shall from time to time weigh or measure and inspect packages or amounts of commodities of whatsoever kind kept for the purpose of sale, offered or exposed for sale, or sold or in the process of delivery, in order to determine whether the same contain the amounts represented, and whether they be offered for sale or sold in a manner in accordance with law. He shall at least twice each year and as much oftener as he may deem necessary see that all weights, measures, and weighing or measuring devices used are correct. He may for the purpose above mentioned, and in the general performance of his official duties, enter and go into or upon, and without formal warrant, any stand, place, building, or premises, or stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon, or any person whatsoever, and require him, if necessary, to proceed to some place which the State superintendent (commissioner) may specify, for the purpose of making the proper tests. Whenever the State superintendent (commissioner) finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted.

SEC. 9. Whenever the State superintendent (commissioner) compares weights, measures, or weighing or measuring devices and finds that they correspond or causes them to correspond with the standards in his possession, he shall seal or mark such weights, measures, or weighing or measuring devices with appropriate devices.

SEC. 10. The State superintendent (commissioner) shall condemn and seize and may destroy incorrect weights, measures, or weighing or measuring devices which, in his best judgment, are not susceptible of satisfactory repair; but such as are incorrect and yet, in his best judgment, may be repaired, he shall mark or tag as "Condemned for repairs." The owners or users of any weights, measures, or weighing or measuring devices of which such disposition is made shall have the same repaired and corrected within such reasonable period as may be specified by the superintendent (commissioner), and they may neither use nor dispose of the same in any way, but shall hold the same at the disposal of the superintendent (commissioner). Any weights, measures, or weighing or measuring devices which have been "condemned for repairs," and have not been repaired as required above, shall be confiscated by the superintendent (commissioner).

SEC. 11. The powers and duties given to and imposed upon the State superintendent (commissioner) of weights and measures by sections eight, nine, and ten are hereby given to and imposed upon his deputy and inspectors also, when acting under his instructions and at his direction.

SEC. 12. There shall be a county sealer of weights and measures in each county having a population of twenty thousand or more inhabitants, exclusive of any city having a population of twenty-five thousand or more inhabitants situated therein, according to the latest official State or United States census, who shall be appointed by the board of county commissioners from a list to be furnished by the civil-service board and under the rules of such board where such board exists; otherwise he shall be appointed by the board of county commissioners to hold office during good behavior, and shall not be removed, discharged, or reduced in pay or position except for inefficiency, incapacity, conduct unbecoming an employce, or other just cause, and until he shall have been furnished with a written statement of the reasons for any such contemplated removal, discharge, or reduction, and shall have been given a reasonable time to make written answer thereto; nor shall such removal, discharge, or reduction be made until the charge or charges shall have been examined into and found true in fact by the board of county commissioners or a committee which such board may appoint for

this purpose, at a hearing, upon reasonable notice to the person charged, at which time he may be represented by counsel and offer testimony of witnesses and any other evidence in his own behalf. He shall be paid a salary determined by such board, said salary not to be less than \$---- a year, and no fee shall be charged by him or by the county for the inspecting, testing, or sealing or the repairing or adjusting of weights, measures, or weighing or measuring devices. Whenever the board of county commissioners of such county shall deem it necessary, one or more deputy sealers of weights and measures may be appointed to hold office under the same conditions as those specified for the sealer of weights and measures, and the salaries of such deputies shall be fixed as in the case of the sealer of weights and measures. All deputies appointed shall have the same powers and may perform the same duties as the county sealer, when acting under his instructions and at his direction.

SEC. 13. There shall be a city sealer of weights and measures in cities of not less than twenty-five thousand population, according to the latest State or United States census, to be appointed by the mayor from a list to be furnished by the civil-service board and under the rules of such board where such board exists; otherwise he shall be appointed by the mayor, by and with the advice and consent of the common council, to hold office during good behavior, and shall not be removed, discharged, or reduced in pay or position except for inefficiency, incapacity, conduct unbecoming an employee, or other just cause, and until he shall have been furnished with a written statement of the reasons for any such contemplated removal, discharge, or reduction, and shall have been given a reasonable time to make written answer thereto; nor shall such removal, discharge, or reduction be made until the charge or charges shall have been examined into and found true in fact by the common council or a committee which they may appoint for this purpose, at a hearing, upon reasonable notice to the person charged, at which time he may be represented by counsel and offer testimony of witnesses and any other evidence in his own behalf. He shall be paid a salary to be determined by the common council, said salary not to be less than \$---- a year, and no fee shall be charged by him or by the city for the inspecting, testing, or sealing or the repairing or adjusting of weights, measures, or weighing or measuring devices. Whenever the mayor and common council shall deem it necessary, one or more deputy sealers of weights and measures may be appointed to hold office under the same conditions as those specified for the sealer of weights and measures, and the salaries of such deputies shall be fixed as in the case of the sealer of weights and measures. All deputies appointed shall have the

same powers and may perform the same duties as the city sealer, when acting under his instructions and at his direction. In those cities in which no sealer is required by the above, the county sealer of the county, if such an officer is required to be appointed by the provisions of this act, shall perform in said cities like duties and have like powers as in the county.

SEC. 14. Nothing in sections 12 and 13 of this act shall be construed to prevent two or more counties or a county and a city situated therein, each of which is required to appoint a sealer under the provisions of this act, from combining the whole or any part of their districts, as may be agreed upon by the boards of county commissioners of the counties, or such board of the county and the mayor and common council of the city, with one set of standards and one sealer, upon the written consent of the State superintendent (commissioner) of weights and measures. A sealer appointed in pursuance of an agreement for such combination shall, subject to the terms of his appointment, have the same authority, jurisdiction, and duties as if he had been appointed by each of the authorities who are parties to the agreement.

SEC. 15. The county or city sealer of weights and measures shall forthwith, on his appointment, give a bond in the penal sum of \$1,000, with sureties, to be approved by the appointing power, for the faithful performance of the duties of his office.

SEC. 16. The board of county commissioners of each county and the common council of each city required to appoint a sealer under the provisions of this act shall procure at the expense of the county or city, and shall keep at all times a set of weights and measures and other apparatus as complete and of such materials and construction as the State superintendent (commissioner) of weights and measures may direct. All such weights, measures, and other apparatus having been tried and accurately proven by the State superintendent (commissioner), shall be sealed and certified to by him as hereinbefore provided, and shall be then deposited with and preserved by the county or city sealer as public standards for the county or city.

Whenever the board of county commissioners of such county or the common council of such city shall neglect for six months so to do, the county auditor of said county, or the city clerk (comptroller) of said city, on notification and request by the superintendent (commissioner) of weights and measures, shall provide such standards and cause the same to be tried, sealed, and deposited at the expense of the county or city.

SEC. 17. Where not otherwise provided by law, the county or city sealer shall have the same powers and shall perform the same duties within his county or city as are granted to and imposed upon the State superintendent (commissioner) of weights and measures by sections 8, 9, and 10 of this act.

SEC. 18. The county or city sealer shall keep a complete record of all of his official acts, and shall make an annual report to the board of county commissioners of the county or the mayor and common council of the city and an annual report duly sworn to, on the first day of -----, to the State superintendent (commissioner) of weights and measures, on blanks furnished by the latter; and, also, any special reports that the latter may request.

SEC. 19. The superintendent (commissioner) of weights and measures, his deputy, and inspectors, and the county and city sealers and deputy sealers of weights and measures, are hereby made special policemen and are authorized and empowered to arrest, without formal warrant, any violator of the statutes in relation to weights and measures, and to seize for use as evidence, without formal warrant, any false or unsealed weight, measure, or weighing or measuring device or package or amount of commodity found to be used, retained, or offered or exposed for sale or sold in violation of law.

SEC. 20. Any person who shall hinder or obstruct in any way the superintendent (commissioner) of weights and measures, his deputy, or inspectors, or any county or city sealer or deputy sealer of weights and measures in the performance of his official duties shall be guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not less than \$20 or more than \$200, or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment.

SEC. 21. Any person who shall impersonate in any way the superintendent (commissioner) of weights and measures, his deputy, or inspectors, or any county or city sealer or deputy sealer of weights and measures, by the use of his seal or counterfeit of his seal, or otherwise, shall be guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not less than \$100 or more than \$500, or by imprisonment for not more than one year, or by both such fine and imprisonment.

SEC. 22. It shall be unlawful to sell, except for immediate consumption on the premises, liquid commodities in any other manner than by weight or liquid measure, or commodities not liquid in any other manner than by measure of length, by weight, or by numerical count: Provided, however, That nothing in this section shall be construed to prevent the sale of fruits, vegetables, and other dry commodities in the standard barrel provided for in section 31; or of berries and small fruits in boxes as provided for in section 32; or of vegetables or fruits usually sold by the head or bunch in this manner: Provided further, That nothing in this section shall be construed to apply to foodstuffs put up in original packages.

For the purposes of this section the term "original package" shall be construed to include a commodity in a package, carton, case, can, barrel, bottle, box, phial, or other receptacle, or in coverings or wrappings of any kind, put up by the manufacturer, which may be labeled, branded, or stenciled, or otherwise marked, or which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words "original package" shall be construed to include both the wholesale and the retail package.

For the purposes of this section the term "commodities not liquid" shall be construed to include goods, wares, and merchandise, which are not in liquid form and which have heretofore been sold by measure of length, by weight, by measure of capacity, or by numerical count, or which are susceptible of sale in any of these ways.

SEC. 23. It shall be unlawful to sell or offer to sell any coal, coke, or charcoal in any other manner than by weight. It shall be unlawful for any person to deliver any coal, coke, or charcoal without each individual delivery being accompanied by duplicate delivery tickets on which shall be in ink or other indelible substance, distinctly expressed in pounds, the net weight or weights of coal, coke, or charcoal comprising the delivery, and the gross and tare weights from which each net weight shown is computed, with the name of the purchaser thereof, and the name of the dealer from whom purchased. One of these tickets shall be surrendered to the State superintendent (commissioner), his deputy, or inspectors, or a county or city sealer or deputy sealer of weights and measures, upon his demand for his inspection and this ticket or a weight slip issued by him when he desires to retain the original shall be delivered to the said purchaser of said coal, coke, or charcoal, or his agent or representative at the time of the delivery of the fuel; and the other ticket shall be retained by the seller of the fuel. When the buyer carries away the purchase, a delivery ticket showing the actual number of pounds delivered to him must be given to him at the time the sale is made.

SEC. 24. It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity in package form unless the net quantity of the contents be plainly and conspicuously marked on the outside of the package, in terms of weight, measure, or numerical count: Provided, however, That reasonable variations or tolerances shall be permitted, and that these reasonable variations or tolerances and also exemptions as to small packages shall be established by rules and regulations made by the superintendent (commissioner) of weights and measures: And provided further, That this section shall not be construed to apply to those commodities in package form, the manner of sale of which is specifically regulated by the provisions of other sections of this act.

The words "in package form" as used in this act shall be construed to include a commodity in a package, carton, case, can, box, barrel, bottle, phial, or other receptacle, or in coverings or wrappings of any kind, put up by the manufacturer, or, when put up prior to the order of the commodity, by the vendor, which may be labeled, branded, or stenciled, or otherwise marked, or which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words "in package form" shall be construed to include both the wholesale and the retail package.

SEC. 25. It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell any commodity in package form if its container is so made, formed, or filled, or if it is so wrapped, as to mislead the purchaser as to the quantity of the contents; or if the contents of its container fall below the standard of fill prescribed by regulations promulgated as provided in this section. For the effectuation of the purposes of this section the superintendent (commissioner) of weights and measures is hereby authorized to promulgate regulations fixing and establishing for any commodity in package form a reasonable standard of fill of container.

SEC. 26. It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity composed in whole or in part of cotton, wool, linen, or silk, or any other textile material on a spool or similar holder, or in a container or band, or in a bolt or roll, or in a ball, coil, or skein, or in any similar manner, unless the net amount of the commodity in terms of weight or measure shall be definitely, plainly, and conspicuously marked on the principal label, if there be such a label; otherwise on a wrapping, band, or tag attached thereto.

The words "spool or similar holder, container or band, bolt or roll, or ball, coil, or skein" shall be construed to include the spool or similar holder, container or band, bolt or roll, or ball, coil, or skein put up by the manufacturer; or when put up prior to the order of the commodity, by the vendor. It shall be held to include both the wholesale and the retail package.

SEC. 27. It shall be unlawful for any person to sell, or offer to sell, any butter or renovated or process butter or oleomargarine in any other manner than by weight. It shall be unlawful for any person to put up, pack, or keep for the purpose of sale, offer or expose for sale, or sell any butter or renovated or process butter, or oleomargarine, in the form of prints, bricks, or rolls, in any other than the following sizes, to wit, one-quarter pound, one-half pound, one pound, one and one-half pounds, or multiples of one pound. Each print, brick, or roll shall bear a definite, plain, and conspicuous statement of its true net weight, on the principal label, where there be such a label, otherwise on the outside wrapper thereof; such statement shall be in gothic type not less than one-quarter inch square.

The prints, bricks, or rolls referred to in this section shall be construed to include those prints, bricks, or rolls put up by the manufacturer or producer; or when put up prior to the order of the commodity, by the vendor.

SEC. 28. It shall be unlawful to sell, or offer to sell, except for immediate consumption on the premises, any meat, meat products, or poultry in any other manner than by weight.

SEC. 29. The standard loaf of bread shall weigh one pound, avoirdupois weight. All bread manufactured, procured, made, or kept for the purpose of sale, offered or exposed for sale, or sold, in the form of loaves, shall be one of the following standard weights and no other, namely, one pound, one-half pound, one and one-half pounds, or multiples of one pound, avoirdupois weight: Provided, however, That rules and regulations for the enforcement of the provisions of this section, not inconsistent herewith, shall be made by the superintendent (commissioner), and such rules and regulations shall include reasonable variations or tolerances, in excess only, or in excess and in deficiency, which may be allowed: And provided further, That the provisions of this section shall not apply to biscuits, buns, crackers, rolls, or to what is commonly known as "stale bread" and sold as such, in case the seller shall at the time of sale expressly state to the buyer that the bread so sold is "stale bread." When twin or multiple loaves are baked, the weights specified in this section shall apply to each unit of the twin or multiple loaf.

It shall be unlawful for any person to manufacture, make, procure, or keep for the purpose of sale, offer or expose for sale, or sell, bread in the form of loaves, which is not of one of the weights specified in this section within such variations or tolerances as may be fixed by the superintendent (commissioner) as provided herein. For the purposes of this section, bread shall be deemed to be in the form of loaves whether or not the loaf is wrapped, and whether or not the loaf is sliced.

SEC. 30. Bottles used for the sale of milk or cream shall be of the capacity of one-half gallon, (three pints,)* one quart, one pint, one-half pint, and one gill. Bottles used for the sale of milk or cream shall have clearly blown or otherwise permanently marked in the side of the bottle the capacity of the bottle and the word "Sealed"; and in the side or bottom of the bottle the name, initials, or trade-mark of the manufacturer and a designating number, which designating number shall be different for each manufacturer and may be used in identifying the bottles. The designating number shall be furnished by the State superintendent (commissioner) of weights and measures upon application by the manufacturer, and upon the filing by the manufacturer of a bond in the sum of \$1,000, with sureties, to be approved by the secretary of state (attorney general) conditioned upon conformance with the requirements of this section. A record of the bonds furnished and the designating numbers and to whom furnished shall be kept in the office of the superintendent (commissioner) of weights and measures.

Any manufacturer who sells or offers to sell milk or cream bottles to be used in this State that do not comply as to size and markings with the provisions of this section shall suffer a penalty of \$500, to be recovered by the attorney general in an action against the offender's bondsmen to be brought in the name of the people of the State. Any dealer who uses, for the purpose of selling milk or cream, bottles purchased after this law takes effect that do not comply with the requirements of this section as to markings and capacity shall be deemed guilty of using a false or insufficient measure.

* It is recommended that the words "three pints," be deleted, thus bringing the requirements of the section into conformance with those of the current National Conference specifications for Milk Bottles.

The superintendent (commissioner) of weights and measures, his deputy and inspectors, and county and city sealers and deputy sealers of weights and measures are not required to seal bottles for milk or cream marked as in this section provided, but they shall have the power to and shall from time to time make tests on individual bottles used by the various firms in the territory over which they have jurisdiction in order to ascertain if the above provisions are being complied with; county and city sealers of weights and measures shall immediately report violations found to the State superintendent (commissioner) of weights and measures.

SEC. 31. The standard barrel for fruits, vegetables, and other dry commodities other than cranberries shall be of the following dimensions when measured without distention of its parts: Length of staves, twenty-eight and one-half inches; diameter of heads, seventeen and one-eighth inches; distance between heads, twenty-six inches; circumference of bulge, sixty-four inches, outside measurement; and the thickness of staves not greater than four-tenths of an inch: Provided, That any barrel of a different form having a capacity of seven thousand and fifty-six cubic inches shall be a standard barrel. The standard barrel for cranberries shall be of the following dimensions when measured without distention of its parts: Length of staves, twenty-eight and one-half inches; diameter of heads, sixteen and one-fourth inches; distance between heads, twenty-five and one-fourth inches; circumference of bulge, fifty-eight and one-half inches, outside measurement; and the thickness of staves not greater than four-tenths of an inch.

It shall be unlawful for any person to offer or expose for sale, sell, or ship any other barrels for fruits, vegetables, or other dry commodities, or to offer or expose for sale, sell, or ship any fruits, vegetables, or other dry commodities in other barrels than the standard barrels as defined in this section, or subdivisions thereof known as the third, half, or three-quarters barrel: Provided, however, That nothing in this section shall apply to barrels used in packing or shipping commodities sold exclusively by weight or numerical count: And provided further, That no barrel shall be deemed below standard within the meaning of this section when shipped to any foreign country and constructed according to the specifications or directions of the foreign purchaser if not constructed in conflict with the laws of the foreign country to which the same is intended to be shipped.

SEC. 32. It shall be unlawful to sell or offer to sell any berries or small fruits in any other manner than by weight, or in the containers described in this section. It shall be unlawful to procure or keep for the purpose of sale, offer or expose for sale, sell, or give away baskets or other open containers for berries or small fruits, holding one quart or less, or to procure or keep for the purpose of sale, offer or expose for sale, or sell berries or small fruits in baskets or other open containers, holding one quart or less, of any other than the following capacities, when level full: One quart, one pint, or one-half pint, standard dry measure.

SEC. 33. The term "gallon" shall be understood to mean a unit of 231 cubic inches, of which the liquid quart, liquid pint, and gill are, respectively, the one-quarter, the one-eighth, and the one-thirty-second parts. The term "bushel," when used in connection with dry measures and standard containers, shall be understood to mean a unit of 2150.42 cubic inches, of which the dry quart and dry pint, respectively, are the one-thirty-second and the one-sixty-fourth parts. The term "barrel," when used in connection with flour, shall be understood to mean a unit of 196 pounds, avoirdupois weight, and fractional parts of a barrel shall be understood to mean like fractional parts of 196 pounds. The term "barrel," when used in connection with beer, ale, porter, and other similar fermented liquor, shall be understood to mean a unit of 31 gallons, and fractional parts of a barrel shall be understood to mean like fractional parts of 31 gallons. The term "ton" shall be understood to mean a unit of 2,000 pounds, avoirdupois weight. The term "cord," when used in connection with wood intended for fuel purposes, shall be understood to mean the amount of wood which is contained in a space of 128 cubic feet, when the wood is ranked and well stowed and one-half the kerf of the wood is included. All contracts concerning the sale of goods shall be construed in accordance with the provisions of this section.

SEC. 34. It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell wheat flour in packages which do not conform to one of the following weights: 196 pounds, 98 pounds, 49 pounds, 24 1/2 pounds, 12 1/4 pounds, 6 pounds, 5 pounds, 4 pounds, 3 pounds, 2 pounds, 1 pound, avoirdupois weight.

SEC. 35. It shall be unlawful to misrepresent the price of a commodity, thing, or service sold or offered or exposed for sale, or to represent the price or the quantity of any commodity, thing, or service sold or offered or exposed for sale in any manner calculated or tending to mislead or deceive an actual or prospective customer.

SEC. 36. Whenever any commodity is sold on a basis of weight, it shall be unlawful to employ any other weight in such sale than the net weight of the commodity; and all contracts concerning goods sold on a basis of weight shall be understood and construed accordingly. Whenever the weight of a commodity is mentioned in this act, it shall be understood and construed to mean the net weight of the commodity.

SEC. 37. Any person who, by himself or by his servant or agent, or as the servant or agent of another person, shall offer or expose for sale, sell, use in the buying or selling of any commodity or thing, or for hire or award, or in the computation of any charge for services rendered on the basis of weight or measure, or in the determination of weight or measure when a charge is made for such determination, or retain in his possession, a false weight or measure or weighing or measuring device, or any weight or measure or weighing or measuring device which has not been sealed by the State superintendent (commissioner), or his deputy, or inspectors, or by a sealer or deputy sealer of weights and measures within one year, or shall dispose of any condemned weight, measure, or weighing or measuring device contrary to law, or remove any tag placed thereon by the State superintendent (commissioner), or his deputy, or inspectors, or by a sealer or deputy sealer of weights and measures; or who shall sell or offer or expose for sale less than the quantity he represents of any commodity, thing, or service, or shall take or attempt to take more than the quantity he represents, when, as the buyer, he furnishes the weight, measure, or weighing or measuring device by means of which the amount of any commodity, thing, or service is determined; or who shall keep for the purpose of sale, offer or expose for sale, or sell any commodity in a manner contrary to law; or who shall use in retail trade, except in the preparation of packages put up in advance of sale, a weighing or measuring device which 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; or who shall violate any provision of this act for which a specific penalty has not been provided; or who shall sell or offer for sale, or use or have in his possession for the purpose of selling or using, any device or instrument to be used to or calculated to falsify any weight or measure, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than \$20 or more than \$200, or by imprisonment for not more than three months, or by both such fine and imprisonment, upon a first conviction in any court of competent jurisdiction; and upon a second or subsequent conviction in any court of competent jurisdiction he shall be punished by a fine of not less than \$50 or more than \$500, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

SEC. 38. The word "person" as used in this act shall be construed to import both the plural and singular, as the case demands, and shall include individuals, partnerships, corporations, companies, societies, and associations.

The words "weights, measures, or (and) weighing or (and) measuring devices," as used in this act, shall be construed to include all weights, scales, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any or all such instruments.

The words "sell" or "sale" as used in this act, shall be construed to include barter and exchange.

SEC. 39. 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.

Model Law on Weights and Measures
Form No. 3

SECTION 1. The weights and measures received from the United States under joint resolutions of Congress approved June 14, 1836, and July 27, 1866, and/or such new weights and measures as shall be received from the United States as standard weights and measures in addition thereto or in renewal thereof, and/or such weights and measures in conformity therewith as shall be supplied by the State shall, when the same shall have been certified by the National Bureau of Standards, be the State standards of weights and measures.

SEC. 2. In addition to the State standards of weights and measures, provided for above, there shall be supplied by the State at least one complete set of copies of these, to be kept at all times in the office of the State superintendent (commissioner), and to be known as office standards; and such other weights, measures, and apparatus as may be found necessary to carry out the provisions of this act, to be known as working standards. Such weights, measures, and apparatus shall be verified by the State superintendent (commissioner), or his deputy or inspectors, at his direction, upon their initial receipt and at least once in each year thereafter, the office standards by direct comparison with the State standards, the working standards by comparison with the office standards. When found accurate upon these tests the office and working standards shall be sealed by stamping on them the letter "--" and, in the case of working standards, the last two figures of the year, with seals which the State superintendent (commissioner) shall have and keep for that purpose. The office or working standards shall be used in making all comparisons of weights, measures, and weighing or measuring devices submitted for test in the office of the superintendent (commissioner) and the State standards shall be used only in verifying the office standards and for scientific purposes.

SEC. 3. There shall be a State superintendent (commissioner) of weights and measures, who shall be appointed by the governor, by and with the advice and consent of the senate. Such superintendent (commissioner) shall be appointed for a term of five years, and shall receive a salary of \$---- a year. There shall be a deputy superintendent (commissioner) of weights and measures and inspectors of weights and measures, to be appointed from eligible lists prepared by the civil-service board and under the rules of said board. (In the absence of a civil-service board in the State, substitute for the preceding sentence the following: There shall be a deputy

superintendent (commissioner) of weights and measures and inspectors of weights and measures, to be appointed by the superintendent (commissioner) of weights and measures and to hold office during good behavior, and they shall not be removed, discharged, or reduced in pay or position except for inefficiency, incapacity, conduct unbecoming an employee, or other just cause, and until they shall have been furnished with a written statement of the reasons for any such contemplated removal, discharge, or reduction, and shall have been given a reasonable time to make written answer thereto; nor shall such removal, discharge, or reduction be made until the charge or charges shall have been examined into and found true in fact by the governor or a committee which he may appoint for this purpose, at a hearing, upon reasonable notice to the person charged, at which time he may be represented by counsel and offer testimony of witnesses and any other evidence in his own behalf.) The superintendent (commissioner) of weights and measures shall be allowed for salaries for the deputy superintendent (commissioner) of weights and measures and inspectors of weights and measures, and for clerical services and traveling and contingent expenses for himself, his deputy, and inspectors, such sums as shall be appropriated by the legislature.

SEC. 4. The State superintendent (commissioner) of weights and measures shall forthwith, on his appointment, give a bond in the penal sum of \$5,000, with sureties, to be approved by the secretary of state (attorney general) for the faithful performance of the duties of his office and for the safe-keeping of the standards intrusted to his care and for the surrender thereof immediately to his successor in office or to the person appointed by the governor to receive them. The deputy superintendent (commissioner) of weights and measures and each inspector of weights and measures shall forthwith upon his appointment give a bond in the penal sum of \$1,000, with sureties, to be approved by the secretary of state (attorney general), for the faithful performance of the duties of his office and for the safe-keeping of any apparatus intrusted to his care.

SEC. 5. The superintendent (commissioner) of weights and measures shall take charge of the standards adopted by this act as the standards of the State, and cause them to be kept in a fireproof building belonging to the State (or in a safe and suitable place in the office of the superintendent (commissioner)), from which they shall not be removed except for repairs or for certification, and he shall take all other necessary precautions for their safe-keeping. He shall maintain the State standards in good order and shall submit them

at least once in ten years to the National Bureau of Standards for certification. He shall keep a complete record of the standards, balances, and other apparatus belonging to the State and take a receipt for same from his successor in office. He shall annually, on the first day of ----, make to the governor a report of all work done by his office.

SEC. 6. The State superintendent (commissioner) of weights and measures, or his deputy, or inspectors, at his direction, shall at least once in five years try and prove by the office standards all standard weights, measures, and other apparatus which may belong to any county or city, and shall seal such when found to be accurate by stamping on them the letter "--" and the last two figures of the year with seals which he shall have and keep for that purpose.

The State superintendent (commissioner), or his deputy, or inspectors, at his direction, shall inspect all standard weights, measures, and other apparatus used by the counties and cities at least once in two years, and shall keep a record of the same. He, or his deputy, or inspectors, at his direction, shall at least once in two years visit the various cities and counties of the State for this purpose and in order to inspect the work of the local sealers, and in the performance of such duties they shall have the same powers as the local sealer of weights and measures. The superintendent (commissioner) shall issue from time to time regulations for the guidance of county and city sealers, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. The said regulations may include specifications and tolerances for all weights, measures, and weighing and measuring devices of the character of those specified in Section 13, which shall be designed to eliminate from use, without prejudice to apparatus which conforms as closely as practicable to the official standards, those which are not accurate, which are of such construction that they are faulty -- that is, which are not reasonably permanent in their adjustment or which will not repeat their indications correctly -- or which facilitate the perpetration of fraud. 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. 7. The State superintendent (commissioner) of weights and measures shall have and keep a general supervision of the weights and measures, and weighing or measuring devices offered for sale, sold, or in use in the State. He, or his deputy, or inspectors, at his direction, shall, upon the written request of any person, firm, or corporation, or educational institution in the State, test or calibrate weights, measures, and weighing or measuring devices used as standards in the State. He, or his deputy, or inspectors, at his direction, shall at least once annually test all scales, weights, and measures used in checking the receipts or disbursements of supplies in every institution for the maintenance of which moneys are appropriated by the legislature, and he shall report in writing his findings to the supervisory board and to the executive officer of the institution concerned, and, at the request of such board or executive officer, the superintendent (commissioner) of weights and measures shall appoint in writing one or more employees then in the actual service of the institution who shall act as special deputies for the purpose of checking the receipts or disbursements of supplies.

SEC. 8. There shall be a county sealer of weights and measures in each county, who shall be appointed by the board of county commissioners from a list to be furnished by the civil-service board and under the rules of such board where such board exists; otherwise he shall be appointed by the board of county commissioners to hold office during good behavior, and shall not be removed, discharged, or reduced in pay or position except for inefficiency, incapacity, conduct unbecoming an employee, or other just cause, and until he shall have been furnished with a written statement of the reasons for any such contemplated removal, discharge, or reduction, and shall have been given a reasonable time to make written answer thereto; nor shall such removal, discharge, or reduction be made until the charge or charges shall have been examined into and found true in fact by the board of county commissioners or a committee which such board may appoint for this purpose, at a hearing, upon reasonable notice to the person charged, at which time he may be represented by counsel and offer testimony of witnesses or any other evidence in his own behalf. He shall be paid a salary determined by such board, said salary not to be less than \$---- a year, and no fee shall be charged by him or by the county for the inspecting, testing, or sealing, or the repairing or adjusting of weights, measures, or weighing or measuring devices. Whenever the board of county commissioners shall deem it necessary, one or more deputy sealers of weights and measures may be appointed to hold office under the same conditions as those specified for the sealer of weights and measures, and the salaries of such deputies shall be fixed as in the case of the sealer of weights and measures. All deputies appointed shall have the same powers and may perform the same duties as the county sealer when acting under his instructions and at his direction.

SEC. 9. There shall be a city sealer of weights and measures in cities of not less than 25,000 population, according to the latest official State or United States census, to be appointed by the mayor from a list to be furnished by the civil-service board and under the rules of such board where such board exists; otherwise he shall be appointed by the mayor, by and with the advice and consent of the common council, to hold office during good behavior, and shall not be removed, discharged, or reduced in pay or position except for inefficiency, incapacity, conduct unbecoming an employee, or other just cause, and until he shall have been furnished with a written statement of the reasons for any such contemplated removal, discharge, or reduction, and shall have been given a reasonable time to make written answer thereto; nor shall such removal, discharge, or reduction be made until the charge or charges shall have been examined into and found true in fact by the common council or a committee which they may appoint for this purpose, at a hearing, upon reasonable notice to the person charged, at which time he may be represented by counsel and offer testimony of witnesses or any other evidence in his own behalf. He shall be paid a salary to be determined by the common council, said salary not to be less than \$---- a year, and no fee shall be charged by him or by the city for the inspecting, testing, or sealing, or repairing or adjusting of weights, measures, or weighing or measuring devices. Whenever the mayor and common council shall deem it necessary, one or more deputy sealers of weights and measures may be appointed to hold office under the same conditions as those specified for the sealer of weights and measures, and the salaries of such deputies shall be fixed as in the case of the sealer of weights and measures. All deputies appointed shall have the same powers and may perform the same duties as the city sealer when acting under his instructions and at his direction. In those cities in which no sealer is required by the above the county sealer of the county shall perform in the said cities like duties and have like powers as in the county.

SEC. 10. Nothing in sections 8 and 9 of this act shall be construed to prevent two or more counties, or a county and a city situated therein, from combining the whole or any part of their districts, as may be agreed upon by the boards of county commissioners of the counties, or such board of the county and the mayor and common council of the city, with one set of standards and one sealer, upon the written consent of the State superintendent (commissioner) of weights and measures. A sealer appointed in pursuance of an agreement for such combination shall, subject to the terms of his appointment, have the same authority, jurisdiction, and duties as if he had been appointed by each of the authorities who are parties to the agreement.

SEC. 11. The county or city sealer of weights and measures shall forthwith, on his appointment, give a bond in the penal sum of \$1,000, with sureties, to be approved by the appointing power, for the faithful performance of the duties of his office.

SEC. 12. The board of county commissioners of each county and the common council of each city required to appoint a sealer under the provisions of this act shall procure at the expense of the county or city, and shall keep at all times a set of weights and measures and other apparatus as complete and of such materials and construction as the State superintendent (commissioner) of weights and measures may direct. All such weights, measures, and other apparatus having been tried and accurately proven by the State superintendent (commissioner), shall be sealed and certified to by him as hereinbefore provided, and shall be then deposited with and preserved by the county or city sealer as public standards for the county or city.

Whenever the board of county commissioners of such county or the common council of such city shall neglect for six months so to do, the county auditor of said county, or the city clerk (comptroller) of said city, on notification and request by the superintendent (commissioner) of weights and measures, shall provide such standards and cause the same to be tried, sealed, and deposited at the expense of the county or city.

SEC. 13. When not otherwise provided by law the county or city sealer shall have the power and it shall be his duty within his county or city to inspect, test, try, and ascertain if they are correct, all weights, measures, and weighing or measuring devices kept, offered, or exposed for sale, sold, or used or employed within the county or city in proving the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption purchased or offered or submitted for sale, hire, or award, or in computing any charge for services rendered on the basis of weight or measure, or in determining weight or measure when a charge is made for such determination; and he shall have the power to and shall from time to time weigh or measure and inspect packages or amounts of commodities of whatsoever kind kept for the purpose of sale, offered or exposed for sale, or sold or in the process of delivery, in order to determine whether the same contain the amounts represented, and whether they be kept, offered, or exposed for sale or sold in a manner in accordance with law; he shall at least twice each year and as much oftener as he may deem necessary see that all weights, measures, and weighing or measuring devices used in the county or city are correct. He may for the purpose

above mentioned, and in the general performance of his official duties, enter and go into or upon, and without formal warrant, any stand, place, building, or premises, or stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon, or any person whatsoever, and require him, if necessary, to proceed to some place which the sealer may specify, for the purpose of making the proper tests. Whenever the county or city sealer finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted.

SEC. 14. Whenever the county or city sealer compares weights, measures, or weighing or measuring devices and finds that they correspond or causes them to correspond with the standards in his possession, he shall seal or mark such weights, measures, or weighing or measuring devices with appropriate devices to be approved by the State superintendent (commissioner) of weights and measures.

SEC. 15. The county or city sealer shall condemn and seize and may destroy incorrect weights, measures, or weighing or measuring devices which, in his best judgment, are not susceptible of satisfactory repair; but such as are incorrect and yet, in his best judgment may be repaired, he shall mark or tag as "Condemned for repairs" in a manner prescribed by the State superintendent (commissioner) of weights and measures. The owners or users of any weights, measures, or weighing or measuring devices of which such disposition is made shall have the same repaired and corrected within such reasonable period as may be specified by the county or city sealer, and they may neither use nor dispose of the same in any way, but shall hold the same at the disposal of the sealer. Any weights, measures, or weighing or measuring devices which have been "condemned for repairs," and have not been repaired as required above, shall be confiscated by the sealer.

SEC. 16. The county or city sealer shall keep a complete record of all of his official acts, and shall make an annual report to the board of county commissioners of the county or the mayor and common council of the city and an annual report duly sworn to, on the first day of ----, to the State superintendent (commissioner) of weights and measures, on blanks furnished by the latter; and, also, any special reports that the latter may request.

SEC. 17. The superintendent (commissioner) of weights and measures, his deputy, and inspectors, and the county and city sealers and deputy sealers of weights and measures, are hereby made special policemen and are authorized and empowered to arrest, without formal warrant, any violator of the statutes in relation to weights and measures, and to seize for use as evidence, without formal warrant, any false or unsealed weight, measure, or weighing or measuring device or package or amount of commodity found to be used, retained, or offered or exposed for sale or sold in violation of law.

SEC. 18. Any person who shall hinder or obstruct in any way the superintendent (commissioner) of weights and measures, his deputy, or inspectors, or any county or city sealer or deputy sealer of weights and measures in the performance of his official duties shall be guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not less than \$20 or more than \$200, or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment.

SEC. 19. Any person who shall impersonate in any way the superintendent (commissioner) of weights and measures, his deputy, or inspectors, or any county or city sealer or deputy sealer of weights and measures, by the use of his seal or counterfeit of his seal, or otherwise, shall be guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not less than \$100 or more than \$500, or by imprisonment for not more than one year, or by both such fine and imprisonment.

SEC. 20. It shall be unlawful to sell, except for immediate consumption on the premises, liquid commodities in any other manner than by weight or liquid measure, or commodities not liquid in any other manner than by measure of length, by weight, or by numerical count: Provided, however, That nothing in this section shall be construed to prevent the sale of fruits, vegetables, and other dry commodities in the standard barrel provided for in section 29; or of berries and small fruits in boxes as provided for in section 30; or of vegetables or fruits usually sold by the head or bunch in this manner: Provided further, That nothing in this section shall be construed to apply to foodstuffs put up in original packages.

For the purposes of this section the term "original package" shall be construed to include a commodity in a package, carton, case, can, barrel, bottle, box, phial, or other receptacle, or in coverings or wrappings of any kind, put up by the manufacturer, which may be labeled, branded, or stenciled, or

otherwise marked, or which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words "original package" shall be construed to include both the wholesale and the retail package.

For the purposes of this section the term "commodities not liquid" shall be construed to include goods, wares, and merchandise, which are not in liquid form and which have heretofore been sold by measure of length, by weight, by measure of capacity, or by numerical count, or which are susceptible of sale in any of these ways.

SEC. 21. It shall be unlawful to sell or offer to sell any coal, coke, or charcoal in any other manner than by weight. It shall be unlawful for any person to deliver any coal, coke, or charcoal without each individual delivery being accompanied by duplicate delivery tickets on which shall be in ink or other indelible substance, distinctly expressed in pounds, the net weight or weights of coal, coke, or charcoal comprising the delivery, and the gross and tare weights from which each net weight shown is computed, with the name of the purchaser thereof, and the name of the dealer from whom purchased. One of these tickets shall be surrendered to the State superintendent (commissioner), his deputy, or inspectors, or a county or city sealer or deputy sealer of weights and measures, upon his demand for his inspection and this ticket or a weight slip issued by him when he desires to retain the original shall be delivered to the said purchaser of said coal, coke, or charcoal, or his agent or representative at the time of the delivery of the fuel; and the other ticket shall be retained by the seller of the fuel. When the buyer carries away the purchase, a delivery ticket showing the actual number of pounds delivered to him must be given to him at the time the sale is made.

SEC. 22. It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity in package form unless the net quantity of the contents be plainly and conspicuously marked on the outside of the package, in terms of weight, measure, or numerical count: Provided, however, That reasonable variations or tolerances shall be permitted, and that these reasonable variations or tolerances and also exemptions as to small packages shall be established by rules and regulations made by the superintendent (commissioner) of weights and measures: And provided further, That this section shall not be construed to apply to those commodities in package form, the manner of sale of which is specifically regulated by the provisions of other sections of this act.

The words "in package form" as used in this act shall be construed to include a commodity in a package, carton, case, can, box, barrel, bottle, phial, or other receptacle, or in coverings or wrappings of any kind; put up by the manufacturer, or, when put up prior to the order of the commodity, by the vendor, which may be labeled, branded, or stenciled, or otherwise marked, or which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words "in package form" shall be construed to include both the wholesale and the retail package.

SEC. 23. It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell any commodity in package form if its container is so made, formed, or filled, or if it is so wrapped, as to mislead the purchaser as to the quantity of the contents; or if the contents of its container fall below the standard of fill prescribed by regulations promulgated as provided in this section. For the effectuation of the purposes of this section the superintendent (commissioner) of weights and measures is hereby authorized to promulgate regulations fixing and establishing for any commodity in package form a reasonable standard of fill of container.

SEC. 24. It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity composed in whole or in part of cotton, wool, linen, or silk, or any other textile material on a spool or similar holder, or in a container or band, or in a bolt or roll, or in a ball, coil, or skein, or in any similar manner, unless the net amount of the commodity in terms of weight or measure shall be definitely, plainly, and conspicuously marked on the principal label, if there be such a label; otherwise on a wrapping, band, or tag attached thereto.

The words "spool or similar holder, container or band, bolt or roll, or ball, coil, or skein" shall be construed to include the spool or similar holder, container or band, bolt or roll, or ball, coil, or skein put up by the manufacturer; or when put up prior to the order of the commodity, by the vendor. It shall be held to include both the wholesale and the retail package.

SEC. 25. It shall be unlawful for any person to sell, or offer to sell, any butter or renovated or process butter or oleomargarine in any other manner than by weight. It shall be unlawful for any person to put up, pack, or keep for the purpose of sale, offer or expose for sale, or sell any butter or renovated or process butter, or oleomargarine, in the form of prints, bricks, or rolls, in any other than the following sizes, to wit, one-quarter pound, one-half pound, one pound, one and one-half pounds, or multiples of one pound. Each print, brick, or roll shall bear a definite, plain, and conspicuous statement of its true net weight, on the principal label; where there be such a label, otherwise on the outside wrapper thereof; such statement shall be in gothic type not less than one-quarter inch square.

The prints, bricks, or rolls referred to in this section shall be construed to include those prints, bricks, or rolls put up by the manufacturer or producer; or when put up prior to the order of the commodity, by the vendor.

SEC. 26. It shall be unlawful to sell, or offer to sell, except for immediate consumption on the premises, any meat, meat products, or poultry in any other manner than by weight.

SEC. 27. The standard loaf of bread shall weigh one pound, avoirdupois weight. All bread manufactured, procured, made, or kept for the purpose of sale, offered or exposed for sale, or sold, in the form of loaves, shall be one of the following standard weights and no other, namely, one pound, one-half pound, one and one-half pounds, or multiples of one pound, avoirdupois weight: Provided, however, That rules and regulations for the enforcement of the provisions of this section not inconsistent herewith, shall be made by the superintendent (commissioner), and such rules and regulations shall include reasonable variations or tolerances, in excess only, or in excess and in deficiency, which may be allowed: And provided further, That the provisions of this section shall not apply to biscuits, buns, crackers, rolls, or to what is commonly known as "stale bread" and sold as such, in case the seller shall at the time of sale expressly state to the buyer that the bread so sold is "stale bread." When twin or multiple loaves are baked, the weights specified in this section shall apply to each unit of the twin or multiple loaf.

It shall be unlawful for any person to manufacture, make, procure, or keep for the purpose of sale, offer or expose for sale, or sell, bread in the form of loaves, which is not of one of the weights specified in this section within such variations or tolerances as may be fixed by the superintendent (commissioner) as provided herein. For the purposes of this section, bread shall be deemed to be in the form of loaves whether or not the loaf is wrapped, and whether or not the loaf is sliced.

SEC. 28. Bottles used for the sale of milk or cream shall be of the capacity of one-half gallon, (three pints,)* one quart, one pint, one-half pint, and one gill. Bottles used for the sale of milk or cream shall have clearly blown or otherwise permanently marked in the side of the bottle the capacity of the bottle and the word "Sealed"; and in the side or bottom of the bottle the name, initials, or trade-mark of the manufacturer and a designating number, which designating number shall be different for each manufacturer and may be used in identifying the bottles. The designating number shall be furnished by the State superintendent (commissioner) of weights and measures upon application by the manufacturer, and upon the filing by the manufacturer of a bond in the sum of \$1,000, with sureties, to be approved by the secretary of state (attorney general) conditioned upon conformance with the requirements of this section. A record of the bonds furnished and the designating numbers and to whom furnished shall be kept in the office of the superintendent (commissioner) of weights and measures.

Any manufacturer who sells or offers to sell milk or cream bottles to be used in this State that do not comply as to size and markings with the provisions of this section shall suffer a penalty of \$500, to be recovered by the attorney general in an action against the offender's bondsmen to be brought in the name of the people of the State. Any dealer who uses, for the purpose of selling milk or cream, bottles purchased after this law takes effect that do not comply with the requirements of this section as to markings and capacity shall be deemed guilty of using a false or insufficient measure.

* It is recommended that the words "three pints," be deleted, thus bringing the requirements of the section into conformance with those of the current National Conference specifications for Milk Bottles.

The superintendent (commissioner) of weights and measures, his deputy and inspectors, and county and city sealers and deputy sealers of weights and measures are not required to seal bottles for milk or cream marked as in this section provided, but they shall have the power to and shall from time to time make tests on individual bottles used by the various firms in the territory over which they have jurisdiction in order to ascertain if the above provisions are being complied with; county and city sealers of weights and measures shall immediately report violations found to the State superintendent (commissioner) of weights and measures.

SEC. 29. The standard barrel for fruits, vegetables, and other dry commodities other than cranberries shall be of the following dimensions when measured without distention of its parts: Length of staves, twenty-eight and one-half inches; diameter of heads, seventeen and one-eighth inches; distance between heads, twenty-six inches; circumference of bulge, sixty-four inches, outside measurement; and the thickness of staves not greater than four-tenths of an inch: Provided, That any barrel of a different form having a capacity of seven thousand and fifty-six cubic inches shall be a standard barrel. The standard barrel for cranberries shall be of the following dimensions when measured without distention of its parts: Length of staves, twenty-eight and one-half inches; diameter of heads, sixteen and one-fourth inches; distance between heads, twenty-five and one-fourth inches; circumference of bulge, fifty-eight and one-half inches, outside measurement; and the thickness of staves not greater than four-tenths of an inch.

It shall be unlawful for any person to offer or expose for sale, sell, or ship any other barrels for fruits, vegetables, or other dry commodities, or to offer or expose for sale, sell, or ship any fruits, vegetables, or other dry commodities in other barrels than the standard barrels as defined in this section, or subdivisions thereof known as the third, half, or three-quarters barrel: Provided, however, That nothing in this section shall apply to barrels used in packing or shipping commodities sold exclusively by weight or numerical count: And provided further, That no barrel shall be deemed below standard within the meaning of this section when shipped to any foreign country and constructed according to the specifications or directions of the foreign purchaser if not constructed in conflict with the laws of the foreign country to which the same is intended to be shipped.

SEC. 30. It shall be unlawful to sell or offer to sell any berries or small fruits in any other manner than by weight, or in the containers described in this section. It shall be unlawful to procure or keep for the purpose of sale, offer or expose for sale, sell, or give away baskets or other open containers for berries or small fruits, holding one quart or less, or to procure or keep for the purpose of sale, offer or expose for sale, or sell berries or small fruits in baskets or other open containers, holding one quart or less, of any other than the following capacities, when level full: One quart, one pint, or one-half pint, standard dry measure.

SEC. 31. The term "gallon" shall be understood to mean a unit of 231 cubic inches, of which the liquid quart, liquid pint, and gill are, respectively, the one-quarter, the one-eighth, and the one-thirty-second parts. The term "bushel," when used in connection with dry measures and standard containers, shall be understood to mean a unit of 2150.42 cubic inches, of which the dry quart and dry pint, respectively, are the one-thirty-second and the one-sixty-fourth parts. The term "barrel," when used in connection with flour, shall be understood to mean a unit of 196 pounds, avoirdupois weight, and fractional parts of a barrel shall be understood to mean like fractional parts of 196 pounds. The term "barrel," when used in connection with beer, ale, porter, and other similar fermented liquor, shall be understood to mean a unit of 31 gallons, and fractional parts of a barrel shall be understood to mean like fractional parts of 31 gallons. The term "ton" shall be understood to mean a unit of 2,000 pounds, avoirdupois weight. The term "cord," when used in connection with wood intended for fuel purposes, shall be understood to mean the amount of wood which is contained in a space of 128 cubic feet, when the wood is raked and well stowed and one-half the kerf of the wood is included. All contracts concerning the sale of goods shall be construed in accordance with the provisions of this section.

SEC. 32. It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell wheat flour in packages which do not conform to one of the following weights: 196 pounds, 98 pounds, 49 pounds, 24 1/2 pounds, 12 1/4 pounds, 6 pounds, 5 pounds, 4 pounds, 3 pounds, 2 pounds, 1 pound, avoirdupois weight.

SEC. 33. It shall be unlawful to misrepresent the price of a commodity, thing, or service sold or offered or exposed for sale, or to represent the price or the quantity of any commodity, thing, or service sold or offered or exposed for sale in any manner calculated or tending to mislead or deceive an actual or prospective customer.

SEC. 34. Whenever any commodity is sold on a basis of weight, it shall be unlawful to employ any other weight in such sale than the net weight of the commodity; and all contracts concerning goods sold on a basis of weight shall be understood and construed accordingly. Whenever the weight of a commodity is mentioned in this act, it shall be understood and construed to mean the net weight of the commodity.

SEC. 35. Any person who, by himself or by his servant or agent, or as the servant or agent of another person, shall offer or expose for sale, sell, use in the buying or selling of any commodity or thing, or for hire or award, or in the computation of any charge for services rendered on the basis of weight or measure, or in the determination of weight or measure when a charge is made for such determination, or retain in his possession, a false weight or measure or weighing or measuring device, or any weight or measure or weighing or measuring device which has not been sealed by the State superintendent (commissioner), or his deputy, or inspectors, or by a sealer or deputy sealer of weights and measures within one year, or shall dispose of any condemned weight, measure, or weighing or measuring device contrary to law, or remove any tag placed thereon by the State superintendent (commissioner), or his deputy, or inspectors, or by a sealer or deputy sealer of weights and measures; or who shall sell or offer or expose for sale less than the quantity he represents of any commodity, thing, or service, or shall take or attempt to take more than the quantity he represents, when, as the buyer, he furnishes the weight, measure, or weighing or measuring device by means of which the amount of any commodity, thing, or service is determined; or who shall keep for the purpose of sale, offer or expose for sale, or sell any commodity in a manner contrary to law; or who shall use in retail trade, except in the preparation of packages put up in advance of sale, a weighing or measuring device which 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; or who shall violate any provision of this act for which a specific penalty has not been provided; or who shall sell or offer for sale, or use or have in his possession for the purpose of selling or using, any device or instrument to be used to or calculated to falsify any weight or measure, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than \$20 or more than \$200, or by imprisonment for not more than three months, or by both such fine and imprisonment, upon a first conviction in any court of competent jurisdiction; and upon a second or subsequent conviction in any court of competent jurisdiction he shall be punished by a fine of not less than \$50 or more than \$500, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

SEC. 36. The word "person" as used in this act shall be construed to import both the plural and singular, as the case demands, and shall include individuals, partnerships, corporations, companies, societies, and associations.

The words "weights, measures, or (and) weighing or (and) measuring devices," as used in this act, shall be construed to include all weights, scales, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any or all such instruments.

The words "sell" or "sale" as used in this act, shall be construed to include barter and exchange.

SEC. 37. 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.